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Chief Executive Officer

County of Los Angeles CHIEF EXECUTIVE OFFICE

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Second District

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Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

May 6, 2014

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

DEFINED CONTRIBUTION PROGRAM THIRD PARTY ADMINISTRATOR, COMMUNICATIONS AND TRUSTEE CONTRACTS (ALL DISTRICTS - 3 VOTES)

SUBJECT

Recommendation to award the competitively bid contract for third party administrative (TPA) services, communication services, and trustee services related to the County's defined contribution plans.

IT IS RECOMMENDED THAT THE BOARD:

1. Approve and instruct the Chairman to sign the contract with Great-West Financial Life & Annuity Insurance Company (Great-West) as the third party administrator (TPA) and communication services provider for the Deferred Compensation and Thrift (Horizons) Plan, Savings Plan, Pension Savings Plan, and Termination Pay Pick-Up Plan. The Contract (ATTACHMENT I) is for a five-year term commencing July 1, 2014, with the option to renew up to two additional years (one additional one-year period and up to twelve month-to-month extensions).
2. Delegate authority to the Horizons, Savings, Pension Savings, and Termination Pay Pick-Up Plan Administrative Committees (PACs) Chair to extend the contract term for up to one additional one-year period and twelve month-to-month extensions for a maximum total contract term of seven years.

"To Enrich Lives Through Effective And Caring Service"

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3. Delegate authority to the Chief Executive Officer (CEO) or designee to negotiate with the Contractor for any changes in and/or additional unanticipated but necessary work for the Defined Contribution Program, other than communication services, provided that (1) the cost, if any, to each Plan for each additional services agreement does not exceed \$75,000 in any one fiscal year, and (2) the aggregate fiscal year cost, if any, to each Plan of all additional services agreements with the Contractor that are authorized by the CEO or designee during each fiscal year does not exceed \$300,000.
4. Delegate authority to the CEO or designee to negotiate with the Contractor for any changes in and/or any additional unanticipated but necessary communication services, provided that (1) the cost, if any, to each Plan for each supplemental communication services agreement does not exceed \$75,000 in any one fiscal year, and (2) the aggregate fiscal year cost, if any, to each Plan of all supplemental communication services agreements with the Contractor that are authorized by the CEO or designee during each fiscal year does not exceed \$300,000.
5. Delegate authority to the CEO or designee to enter into amendments with the Contractor which otherwise affect the scope of work (e.g., the addition of a Roth 457 and/or Roth 401(k) feature), administration (e.g., the eventual elimination of the Termination Pay Pick-Up Plan), and/or services under this contract, or to add and/or change Board of Supervisors (Board) required provisions in this contract.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

TPA and communication services for the Horizons, Savings, Pension Savings, and Termination Pay Pick-Up Plans (the four Defined Contribution (DC) Plans) are currently provided by Great-West under three separate contracts. The current TPA contract is a Board contract that covers the four DC Plans and expires June 30, 2014, with provision for an additional one-year extension. The current communication services contracts, one for the Horizons Plan and the other for the Savings Plan, are PAC contracts. The PACs exercised month-to-month extensions for these two contracts which are also slated to expire June 30, 2014, in order to accommodate the solicitation process and consolidate the three contracts into one combined Board contract for TPA and communication services. The purpose of the recommended action is to obtain the Board's approval for a new five-year contract with Great-West, commencing July 1, 2014, based on the results of a competitive Request for Proposal (RFP) process. We are further recommending that the new contract provide for optional contract extensions of up to two additional years for a total potential contract term of seven years.

Need for TPA Expertise

Great-West has provided TPA services for the Horizons, Savings, and Termination Pay Pick-Up Plans since 1997 when its initial contract was approved by the Board following a competitive solicitation process. Subsequently, another competitive solicitation was conducted in 2008 in which Great-West was retained and was also selected to provide services for the Pension Savings Plan.

As of June 30, 2013, Great-West provided services in aggregate to 125,000 Horizons Plan, Savings Plan, Pension Savings Plan, and Termination Pay Pick-Up Plan participant accounts with \$8.7 billion in accumulated assets. The asset value by Plan at that point in time was as follows:

	HORIZONS	SAVINGS	PENSION SAVINGS	TERMINATION PAY PICK-UP
Total Assets	\$6,729,216,435	\$1,858,788,737	\$136,892,662	\$3,138,601
Number of Participants	87,831	13,594	24,111	97

On average, Great-West handles more than 200,000 participant inquiries/transactions per month.

The County utilizes a qualified TPA and communication services provider because of the professional expertise, specialized systems, and experience necessary to perform the services these plans require. Recordkeeping and participant communication services are arguably the most fundamental core functions a TPA can provide. The TPA is responsible for maintaining the accuracy of each participant's investment accounts as well as processing all of the daily financial transactions, including investment trading actions by participants, changes in contribution amounts, asset distributions, hardship withdrawals, the administration of loans, plan asset reconciliation, participant website design and support, and other transactions that take place under the plans. Additionally, licensed representatives provide no less than 700 group meetings and education seminars at various County facilities and 10,000 one-on-one meetings each year with Plan participants. As the communication services provider, the TPA provides print and web-based communications and targeted marketing materials.

Implementation of Strategic Plan Goals

The recommended actions are consistent with the following Strategic Plan Goals:

Operational Effectiveness – This new contract enhances the County's defined contribution plan by providing additional services and combines administration and communication services under one contract.

Fiscal Sustainability - The new contract provides additional services while reducing the administrative costs to County employees by \$2.5 million dollars over the five-year contract term. These cost savings will have an even greater impact as they compound in Participant investment accounts over time.

Integrated Services Delivery – The new contract integrates the County's defined contribution program by incorporating TPA and communication services under one agreement.

FISCAL IMPACT/FINANCING

These recommendations will result in no increase in County cost.

The costs for the Horizons, Savings, and Termination Pay Pick-Up Plans are paid by administrative fees charged to the accounts of participants. The Pension Savings Plan is a Social Security replacement Plan. Administration fees for this Plan are currently and will continue to be paid in full by the County in order to keep the returns paid to participant accounts from being too low.

Under the proposed Great-West contract, participants will receive a reduction in TPA fees, as outlined in the table below. These fee reductions are projected to save participants approximately \$500,000 per annum (\$2.5 million over the term of the 5-year contract), which represents an 8 percent reduction in fees (projection based on TPA fees, loan fees, and self-directed brokerage fees).

	Annual Per Participant TPA Fee			Estimated Annual Cost*		Reduction in Cost
	Current Contract	Great-West Proposal	% Change	Current Contract	Great-West Proposal	
Horizons	\$39.20	\$34.44	-12%	\$4,660,000	\$4,229,000	\$431,000
Savings	\$43.90	\$38.64	-12%	\$702,000	\$628,000	\$74,000
Pension Savings	\$23.80	\$23.76	0%	\$573,000	\$573,000	\$0
Termination Pay Pick-Up	\$34.00	\$33.60	-1%	\$3,000	\$3,000	\$0
				\$5,938,000	\$5,433,000	\$505,000

TPA compensation is currently limited to the fees charged to participants. Great-West is contractually prohibited from receiving any other revenue from any source in connection with these Plans. This requirement will continue under the new contract.

Relative to the TPA Fees, communication services fees are a small portion of overall costs, and consist of fees for core communication services and optional communication services (Fiscal Year 2013/2014 core fees are projected to be approximately \$266,000 and optional fees are projected to be approximately \$27,000). Core fees for Fiscal Year 2014/2015 are projected to be slightly less than the current fees, and optional fees will depend on the type of optional communication services utilized in that fiscal year.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Federal law requires defined contribution plans to be placed under trust with the primary responsibility of safekeeping plan assets for the exclusive benefit of the participant and his or her beneficiaries. Trustee banks, which are federally regulated, work with the TPA to make sure the investment of plan assets is permissible under the terms of the plan and the law, and that the actions necessary to execute investment transactions are performed. It is standard industry practice to have the TPA identify a trustee bank that is familiar with the TPA's internal systems and financial controls.

Wells Fargo is the trustee bank used by Great-West under the current contract and that relationship will continue under the proposed contract. There is no County cost for trustee services as those costs are included in the TPA fees charged to plan participants. The cost of these services is \$20,000 per annum.

As part of the solicitation process, Great-West submitted an exception to the County standard contract language regarding indemnification (new County indemnification provisions established in June 2013). During contract negotiations, the County agreed to alternate indemnification provisions. The alternate indemnification provisions agreed to are not believed to have increased risk for the County due in part to indemnification language present in other TPA-related contracts (trustee, custodian, etc.). It is also notable that the new contract has Privacy/Network Security (Cyber) Liability Coverage, an enhancement not currently in place in the current contract, which has been approved by the Chief Information Officer.

The proposed contract is in compliance with all Board, CEO, and County Counsel requirements.

CONTRACTING PROCESS

The Chief Executive Office retained Mercer Investment Consulting, Inc. (Mercer) to assist with the development of RFP materials and the overall solicitation process. The RFP was released on October 9, 2013. It was posted on the County's website and e-mail notifications were sent to companies known to be active in this market and companies who had previously indicated they wished to receive a copy of the RFP. Notifications of the RFP were also posted on the National Association of Government Defined Contribution Administrators website and via Pensions & Investments website and periodical. A bidders' conference was held on October 30, 2013, via webcast. Seven companies participated in the bidders' conference.

Written responses to all submitted questions were issued on November 5, 2013. Proposals were due by November 19, 2013. Two proposals were received timely, although one of the proposals was determined to have failed to meet the minimum requirements stated in the RFP. The proposing company was notified of the disqualification and was given the opportunity to respond. Following the response from the proposing company, the disqualification was determined to be valid.

After the proposal due date, the County instructed Mercer to contact several companies known to be active in this market to inquire why the companies had declined to bid. Below is a summary of responses:

- Two companies indicated they did not bid because they determined their proposed fees would be higher than those currently in place, and would therefore not be competitive.
- One company indicated it did not bid because of too many other competing demands for their internal resources over the next year.
- One company indicated it did not bid because it had not established any relationship with County contacts prior to the RFP.
- One company indicated it did not bid because of contractual and administrative components that fell outside their standard service model.

The only non-disqualified proposal submitted was from Great-West. A five-person joint union/management evaluation committee was established to evaluate the proposal pursuant to the Board's Informed Averaging Methodology. The evaluation committee conducted a thorough evaluation of the proposal in accordance with the evaluation criteria set out in the RFP document.

The Chief Executive Officer has evaluated and determined that the Living Wage Program (County Code Chapter 2.201) does not apply to this recommended contract.

Survey of Other Public Entity Practices

The Chief Executive Office collaborated with Mercer to design and conduct a pre-RFP survey (ATTACHMENT II) of five large governmental defined contribution plans. The survey focused on fees and services, and the identification of “best practice” benchmark services.

The Mercer survey shows that TPA fees can vary due to the level of required services, plan complexity, and participant population. However, it should be noted that the TPA fees proposed by Great-West are competitive with other large defined contribution plans. As noted above, those fees would decrease by approximately 8 percent under the proposed Great-West contract.

The survey also found that many defined contribution plan best practices are already in place under the current Great-West contract. Examples of best practices include utilization of local field and call center representatives that are specifically dedicated only to the County’s Plans, and transparency in financial accounting and reporting through the use of separate accounting ledgers dedicated exclusively to the County’s Plans.

Based on the results of the survey, the RFP was updated in the following areas:

- **Roth** – Information was requested regarding capabilities to support Roth 457 and 401(k) structures in the event the County adds this feature during the contract term.
- **Participant Advice** – Information was requested regarding capabilities to offer advice to participants and managed account services in the event the County adds this feature during the contract term.
- **Communication Services** – Although the Horizons and Savings Plans currently contract separately from TPA services, the communication services were combined with the TPA services in this RFP. This is (a) consistent with the structure used by other comparable plans, (b) intended to capitalize on the efficiencies inherent in using a single company for TPA and communication services, and (c) included as a component to avoid any possible deterrent for bidders if the contracts were separate.

IMPACT ON CURENT SERVICES

The proposed contract with Great-West for TPA and communication services for the Horizons, Savings, Pension Savings, and the Termination Pay Pick-Up Plans will become effective July 1, 2014. Given that Great-West is the current TPA and communication services provider, the existing Wells Fargo contracts for trustee services will remain in full force and effect. Other than lowering fees, there would be no noticeable change for the plan participants.

Respectfully submitted,



WILLIAM T FUJIOKA
Chief Executive Officer

WTF:BC:JA
MTK:SM:mst

Enclosures

c: Executive Office, Board of Supervisors
County Counsel
Auditor-Controller
Human Resources
Treasurer and Tax Collector
Horizons Plan Administrative Committee
Savings Plan Administrative Committee
Pension Savings Plan Administrative Committee
Termination Pay Pick-up Plan Administrative Committee
Coalition of County Unions
SEIU, Local 721
Guild for Professional Pharmacists
Los Angeles County Association of Environmental Health Specialists
Peace Officers Counsel of California Association of Public Defender Investigators
Professional Peace Officers Association
Union of American Physicians and Dentists, AFSCME, AFL-CIO
Great-West Financial
Wells Fargo Bank, NA
BNY Mellon



CONTRACT

BY AND BETWEEN

COUNTY OF LOS ANGELES

AND

GREAT-WEST LIFE & ANNUITY INSURANCE COMPANY

FOR

**THIRD PARTY ADMINISTRATIVE AND
COMMUNICATION SERVICES**

(County of Los Angeles Defined Contribution Program)

CONTRACT NO. : _____

**CONTRACT PROVISIONS
TABLE OF CONTENTS**

PARAGRAPH	TITLE	PAGE
RECITALS		2
1.0	APPLICABLE DOCUMENTS/INTERPRETATION	3
2.0	DEFINITIONS	5
3.0	SCOPE OF WORK	8
4.0	TERM OF CONTRACT	10
5.0	CONTRACT SUM	11
6.0	ADMINISTRATION OF CONTRACT- COUNTY	15
6.1	COUNTY'S PROJECT DIRECTOR	15
6.2	COUNTY'S PROJECT MANAGER	15
6.3	COUNTY'S PROJECT MONITOR	16
7.0	ADMINISTRATION OF CONTRACT - CONTRACTOR	16
7.1	CONTRACTOR'S PROJECT MANAGER AND CONTRACTOR'S COMMUNICATION PROJECT MANAGER	16
7.2	APPROVAL OF CONTRACTOR'S STAFF	17
7.3	CONTRACTOR ORGANIZATIONAL/STAFFING CHANGES	18
7.4	CONTRACTOR'S COMPENSATION	19
7.5	CONTRACTOR'S STAFF COMPENSATION	20
7.6	CONTRACTOR'S STAFF IDENTIFICATION	21
7.7	BACKGROUND AND SECURITY INVESTIGATIONS	21
7.8	CONFIDENTIALITY	22
7.9	SECURITY AND PRIVACY OF CONFIDENTIAL INFORMATION	23
8.0	STANDARD TERMS AND CONDITIONS	27
8.1	AMENDMENTS	27
8.2	ASSIGNMENT AND DELEGATION	29
8.3	AUTHORIZATION WARRANTY	30
8.4	BUDGET REDUCTIONS	30
8.5	COMPLAINTS	30
8.6	COMPLIANCE WITH APPLICABLE LAW	31
8.7	COMPLIANCE WITH CIVIL RIGHTS LAWS	33
8.8	COMPLIANCE WITH THE COUNTY'S JURY SERVICE PROGRAM	33
8.9	CONFLICT OF INTEREST	35

**CONTRACT PROVISIONS
TABLE OF CONTENTS**

PARAGRAPH	TITLE	PAGE
8.10	CONSIDERATION OF HIRING COUNTY EMPLOYEES TARGETED FOR LAYOFF/OR RE-EMPLOYMENT LIST	35
8.11	CONSIDERATION OF HIRING GAIN/GROW PROGRAM PARTICIPANTS.....	36
8.12	CONTRACTOR RESPONSIBILITY AND DEBARMENT	36
8.13	CONTRACTOR'S ACKNOWLEDGEMENT OF COUNTY'S COMMITMENT TO THE SAFELY SURRENDERED BABY LAW	39
8.14	CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM.....	39
8.15	COUNTY'S QUALITY ASSURANCE PLAN.....	40
8.16	DAMAGE TO COUNTY FACILITIES, BUILDINGS OR GROUNDS	40
8.17	EMPLOYMENT ELIGIBILITY VERIFICATION.....	41
8.18	FACSIMILE REPRESENTATIONS.....	41
8.19	FAIR LABOR STANDARDS	42
8.20	FORCE MAJEURE	42
8.21	GOVERNING LAW, JURISDICTION, AND VENUE	43
8.22	INDEPENDENT CONTRACTOR STATUS.....	43
8.23	INDEMNIFICATION	44
8.24	GENERAL PROVISIONS FOR ALL INSURANCE COVERAGE	44
8.25	INSURANCE COVERAGE	49
8.26	LIQUIDATED DAMAGES	51
8.27	MOST FAVORED PUBLIC ENTITY	52
8.28	NONDISCRIMINATION AND AFFIRMATIVE ACTION.....	52
8.29	NON EXCLUSIVITY.....	54
8.30	NOTICE OF DELAYS	54
8.31	NOTICE OF DISPUTES	54
8.32	NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT	54
8.33	NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW.....	55
8.34	NOTICES.....	55
8.35	PROHIBITION AGAINST INDUCEMENT OR PERSUASION	55

**CONTRACT PROVISIONS
TABLE OF CONTENTS**

PARAGRAPH	TITLE	PAGE
8.36	PUBLIC RECORDS ACT	55
8.37	PUBLICITY	56
8.38	RECORD RETENTION AND INSPECTION/AUDIT SETTLEMENT	57
8.39	RECYCLED BOND PAPER.....	58
8.40	SUBCONTRACTING	58
8.41	TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM.....	60
8.42	TERMINATION FOR CONVENIENCE	60
8.43	TERMINATION FOR DEFAULT	61
8.44	TERMINATION FOR IMPROPER CONSIDERATION.....	63
8.45	TERMINATION FOR INSOLVENCY.....	63
8.46	TERMINATION FOR NON-ADHERENCE OF COUNTY LOBBYIST ORDINANCE	64
8.47	TERMINATION FOR NON-APPROPRIATION OF FUNDS.....	64
8.48	VALIDITY	65
8.49	WAIVER.....	65
8.50	WARRANTY AGAINST CONTINGENT FEES.....	65
8.51	WARRANTY OF COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM	65
8.52	TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM	66
8.53	WARRANTY OF NO ADDITIONAL COMPENSATION/REVENUES.....	66
8.54	WARRANTY OF COMPLIANCE WITH COUNTY'S ADMINISTRATIVE CORRECTION PROTOCOLS	66
9.0	UNIQUE TERMS AND CONDITIONS.....	66
9.1	OWNERSHIP OF MATERIALS, SOFTWARE AND COPYRIGHT	66
9.2	PATENT, COPYRIGHT AND TRADE SECRET INDEMNIFICATION.....	68
9.3	CONTRACTOR'S CHARITABLE ACTIVITIES COMPLIANCE.....	69
9.4	DATA DESTRUCTION	69
9.5	SURVIVAL.....	70
SIGNATURES		71

CONTRACT PROVISIONS TABLE OF CONTENTS

EXHIBITS

- A. Statement of Work
- B. Pricing Sheet
- C. Contractor's EEO Certification
- D. Jury Service Ordinance
- E. Safely Surrendered Baby Law
- F. Certification of No Conflict of Interest
- G. Familiarity with the County Lobbyist Ordinance Certificate
- H. Local SBE Preference Program
- I. Attestation of Willingness to Consider Gain/Grow Participants
- J. Contractor Employee Jury Service Program – Certification Form and Application for Exception
- K. Default Property Tax Reduction Program
- L. Intentionally Omitted
- M. County's Request for Proposal [To be incorporated by reference]
- N. Contractor's Proposal [To be incorporated by reference]
- O. Performance Requirements Summary (PRS) Chart
- P. Determination of Contractor Non-Responsibility & Contractor Debarment
- Q. County's Administration
- R. Contractor's Administration
- S1. Employee Background Checks
- S2. Contractor Employee Code of Conduct Summary
- S3. Contractor Vendor Code of Conduct

**CONTRACT BETWEEN
COUNTY OF LOS ANGELES
AND
GREAT-WEST LIFE & ANNUITY INSURANCE COMPANY
FOR
THIRD PARTY ADMINISTRATIVE AND
COMMUNICATION SERVICES
(County of Los Angeles Defined Contribution Program)**

This Contract and Exhibits made and entered into this 1st day of July, 2014 by and between the County of Los Angeles, hereinafter referred to as County and Great-West Life & Annuity Insurance Company, hereinafter referred to as Contractor. Contractor's corporate headquarters is located at 8525 E. Orchard Road, 10T3, Greenwood Village, CO 80111.

RECITALS

WHEREAS, the County may contract with private businesses for third party, administrative ("TPA") and communication services when certain requirements are met; and

WHEREAS, the County has adopted (1) the Termination Pick-Up Plan pursuant to Section 401 (a), of the Internal Revenue Code of the United States (the "Code"), (2) the Pension Savings Plan pursuant to Section 457(b) of the Code, (3) the Deferred Compensation and Thrift Plan pursuant to Section 457(b) of the Code, and (4) the Savings Plan pursuant to Section 401 (k) of the Code, (wherein each is

generically identified as "the Plan" or "a Plan," or cumulatively known as "the Defined Contribution Program"), under which the County, and various entities whose employees are eligible for the Defined Contribution Program pursuant to State or local law, are authorized to provide deferred compensation to their eligible employees; and

WHEREAS, the County has solicited and evaluated proposals from private firms specializing in third party administrative and communication services for defined contribution plans and has determined Contractor is able to provide such services under terms and conditions that are most advantageous to the County, the Defined Contribution Program, and Participants; and

WHEREAS, the Contractor is a private firm specializing in providing third party, administrative and communication services; and

WHEREAS, in accordance with Government Code Sections 23005 and 31000, the County may enter into contracts for specialized services;

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for good and valuable consideration, the parties agree to the following:

1.0 APPLICABLE DOCUMENTS/INTERPRETATION

1.1 Exhibits A, B, C, D, E, F, G, H, I, J, K, O, P, Q, R and S are attached to and form a part of this Contract. In the event of any conflict or inconsistency in the definition or interpretation of any word, responsibility, schedule, or the contents or description of any task, deliverable, goods, service, or other work, or otherwise between the base Contract, including Amendments, such conflict or inconsistency shall be resolved by giving

precedence first to the Contract, including Amendments, and then to the Exhibits, according to the following priority.

Exhibits:

EXHIBIT A - Statement of Work

EXHIBIT B - Pricing Sheet

EXHIBIT C – Contractor's EEO Certification

EXHIBIT D - Jury Service Ordinance

EXHIBIT E - Safely Surrendered Baby Law

EXHIBIT F - Certification of No Conflict of Interest

EXHIBIT G - Familiarity with the County Lobbyist Ordinance Certificate

EXHIBIT H - Local SBE Preference Program

EXHIBIT I - Attestation of Willingness to Consider Gain/Grow Participants

EXHIBIT J – Contractor Employee Jury Service Program – Certification
Form and Application for Exception

EXHIBIT K – Default Property Tax Reduction Program

EXHIBIT O - Performance Requirements Summary (PRS) Chart

EXHIBIT P – Determination of Contractor Non-Responsibility & Contractor
Debarment

EXHIBIT Q – County's Administration

EXHIBIT R – Contractor's Administration

EXHIBIT S1 - Contractor Employee Back Ground Checks

EXHIBIT S2 - Contractor Employee Code of Conduct Summary

EXHIBIT S3 – Contractor Vendor Code of Conduct

This Contract and the Exhibits hereto constitute the complete and exclusive statement of understanding between the parties, and supersedes all previous Contracts, written and oral, and all communications between the parties relating to the subject matter of this Contract. No change to this Contract shall be valid unless prepared pursuant to Sub-paragraph 8.1 (Amendments) and signed by both parties.

1.2 Interpretation. In construing the terms of this Contract, the following rules shall apply:

A. Examples provided by using words and phrases such as "include", "including" or "e.g.," shall not be construed as limiting the term clarified thereby. For example, "include" or "including" shall be construed as "include, but not limited to" or "including, but not limited to", respectively.

B. References in this Contract to Federal, State and/or other governmental statutes, codes, rules, regulations, ordinances, guidelines, directives and/or policies, including those copies of which are attached to this Contract, shall mean and shall be to such statutes, codes, rules, regulations, ordinances, guidelines, directives and/or policies as amended from time to time.

C. Unless expressly stated otherwise, all approvals, consents, or determinations by or on behalf of County under this Contract will be in writing, and may be given or withheld in the sole discretion or judgment of the person or entity authorized to provide or make such approval, consent, or determination.

2.0 DEFINITIONS

The headings herein contained are for convenience and reference only and are not intended to define the scope of any provision thereof. The following words as used herein shall be construed to have the following meaning, unless otherwise apparent from the context in which they are used.

- a. **Additional Services:** Shall have the meaning as set forth in Sub-paragraph 8.1.5.
- b. **Additional Services Agreement:** Shall have the meaning as set forth in Sub-paragraph 8.1.5.
- c. **Chief Executive Officer:** The Chief Executive Officer (the "CEO") of the

County of Los Angeles or his designee.

- d. **Committee(s):** The body/ies that is/are responsible for the administration of the Plans.
- e. **Committee Chair:** CEO or his designee.
- f. **Communications Budget:** Shall have the meaning as set forth in Sub-paragraph 3.2.2.
- g. **Communication Services:** Core Communication Services, Optional Communication Services, and any Supplemental Communication Services, as set forth in Sub-paragraph 8.1.6 and Exhibit A (Statement of Work).
- h. **Confidential Information:** Shall have the meaning set forth in Sub-paragraph 7.9.1.
- i. **Contract:** The agreement executed between County and Contractor including the Exhibits, Attachments Appendices and Amendments thereto executed.
- j. **Contractor:** The sole proprietor, partnership, or corporation that has entered into a contract with the County to perform or execute the work covered by the Exhibits, Attachments, Appendices, and any Amendments.
- k. **Contractor's Communication Project Manager:** The individual designated by the Contractor to ensure Participant website and communication related performance, compliance and deliverables are achieved.
- l. **Contractor's Project Manager:** The individual designated by the Contractor to administer the Contract operations after the Contract award.
- m. **Core Communication Services:** Those Communication Services, separate from Optional Communication Services, as set forth in this Contract, Sub-paragraphs 3.2.1, 3.2.2 and in Exhibit A (Statement of Work), Section 2.0. Core Communication Services may also at any time be supplemented by a Supplemental Communication Services Agreement, as set forth in this Contract, Sub-paragraph 8.1.6.
- n. **Core Communication Services Costs:** The annual cost per Plan for Core Communication Services as set forth in Exhibit B (Pricing Sheet). Core

Communication Services Costs may at any time be supplemented by a Supplemental Communication Services Agreement, as set forth in this Contract, Sub-paragraph 8.1.6.

- o. **County Administrative Fees:** This fee, which is approved by the Committee, covers the County's direct costs associated with administering the Plans, including Core and Optional Communication Services Costs.
- p. **County's Project Director:** Person designated by County with authority for County on contractual or administrative matters relating to this Contract that cannot be resolved by the County's Project Manager.
- q. **County's Project Manager:** Person designated by County's Project Director to manage the operations under this Contract.
- r. **County's Project Monitor:** Person with responsibility to oversee the day to day activities of this Contract, and responsibility for inspections of any and all tasks, deliverables, goods, services and other work provided by the Contractor.
- s. **Day(s):** Calendar day(s) unless otherwise specified.
- t. **Directed Trustee:** The financial institution with which the County enters into a Trust Agreement.
- u. **Directed Trustee Services:** Those services as set forth in the applicable Trust Agreements between the County and Trustee which govern the Defined Contribution Program, and as set forth in Exhibit A (Statement of Work), Paragraph 7.2 (Relationship of Contractor with respect to the Trustee).
- v. **Directed Trustee Services Cost:** The Trustee's annual cost per Plan to provide Directed Trustee Services, as set forth in Exhibit B (Pricing Sheet). The cost to provide Directed Trustee Services are included in TPA Services Fee as set forth in Exhibit B (Pricing Sheet).
- w. **Fiscal Year:** The twelve (12) month period beginning July 1st and ending the following June 30th.
- x. **Implementation Date:** The date following the Transition Period, as defined in Exhibit A (Statement of Work), of the Contract sub-Paragraph 1.6, on

which the Contractor begins providing TPA Services and Communication Services as defined in Exhibit A (Statement of Work) of the Contract.

- y. **Implementing Memoranda:** Shall have the meaning as set forth in Sub-paragraph 8.1.4.
- z. **Optional Communication Services:** Those Communication Services, separate from Core Communication Services, which are described in the Communication Budget, as approved by the Committee and as set forth in Sub-paragraph 3.2.2. Optional Communication Services may at any time be supplemented by a Supplemental Communication Services Agreement, as set forth in Sub-paragraph 8.1.6.
- aa. **Optional Communication Services Costs:** The costs for Optional Communication Services, which are described in the Communication Budget, as approved by the Committee and as set forth in Sub-paragraph 3.2.2. Optional Communication Services Costs may at any time be supplemented by a Supplemental Communication Services Agreement, as set forth in Sub-paragraph 8.1.6.
- bb. **Participant(s):** Employees, former employees, alternate payees, and beneficiaries of the Plan(s) with an account balance in a Plan.
- cc. **Relationship Manager:** The individual designated by the Contractor to oversee client relations and issue resolution.
- dd. **Supplemental Communication Services:** Shall have the meaning as set forth in Sub-paragraph 8.1.6.
- ee. **Supplemental Communication Services Agreement:** Shall have the meaning as set forth in Sub-paragraph 8.1.6.
- ff. **System(s):** Any electronic or computer based system on which the Contractor maintains Confidential Information.
- gg. **TPA Services:** All record keeping and administrative services, as well as Directed Trustee Services for the Defined Contribution Program. TPA Services include all services set forth in this Contract and Exhibit A (Statement of Work), with the exception of Communication Services. TPA Services may at any time be supplemented by an Additional Services Agreement, as set forth in Sub-paragraph 8.1.5.

- hh. **TPA Services Fees:** The fees for TPA Services (and Directed Trustee Services) as set forth in Exhibit B (Pricing Sheet).
- ii. **Transition Period:** The period of time during which the Contractor provides transition services, as set forth in the Exhibit A (Statement of Work), Section 1.0.
- jj. **Trust Agreement:** An Agreement executed by the County and Trustee for the purpose of establishing a trust fund for Defined Contribution Program assets.
- kk. **Trustee:** Shall have the meaning as set forth in Exhibit A (Statement of Work), Sub-paragraph 7.1.k.

3.0 SCOPE OF WORK

- 3.1 Pursuant to the provisions of this Contract, the Contractor shall fully perform, complete and deliver on time, all tasks, deliverables, services and other work as set forth herein, including but not limited to those tasks, deliverables, services and other work set forth in Exhibit A (Statement of Work).
- 3.2 Without limiting the foregoing, Contractor shall provide Core Communication Services as set forth in Exhibit A (Statement of Work), Section 2.0, with such investigative, analytical, creative, production, secretarial, and clerical support services as may be necessary to perform the services in a professional manner.
 - 3.2.1 Contractor shall provide the County's Project Manager with drafts of communication deliverables prior to final production. All drafts shall reflect compliance with current Plan provisions, and applicable legal and regulatory requirements (e.g., SEC and NASD disclosure requirements), as well as with the Employee Retirement Income Security Act of 1974 (ERISA) disclosure requirements that would be applicable if the Plans were subject to ERISA (including, but not limited to, the disclosure requirements that must be satisfied in order for fiduciaries to be relieved from liability under ERISA Section (404(c)).

3.2.2 Contractor shall provide the County's Project Manager an annual communications budget (the "Communications Budget") by the first week of January each year for the upcoming fiscal year for approval. The Communications Budget shall identify (i) the annual Core Communication Services Costs, as set forth in Exhibit B (Pricing Sheet); and (ii) any Optional Communication Services Costs which are anticipated for the upcoming fiscal year, and any corresponding sub-components, number of units to be produced based on enrollment needs and population growth, estimated deliverable cost and unit cost, and the production/delivery schedule. Also, the Communications Budget shall identify expenses allocated to the Contractor, sub-contractor (if any), production, collation, and postage. The Communications Budget shall provide for the drafting and/or update of materials to reflect current Plan provisions and investments.

Upon Committee approval of each fiscal year's Communications Budget, the Contractor shall maintain a system of record keeping that will allow the Contractor to determine when it has incurred fifty percent (50%) of each fiscal year's Communications Budget, as approved by the Committee under this Contract. Upon occurrence of this event, the Contractor shall send written notification to the County's Project Manager at the address herein provided in Exhibit Q (County's Administration).

3.3 If the Contractor provides any tasks, deliverables, goods, services, or other work, other than as specified in this Contract, the same shall be deemed to be a gratuitous effort on the part of the Contractor, and the Contractor shall have no claim whatsoever against the County.

4.0 TERM OF CONTRACT

4.1 The term of this Contract shall be five (5) years and commence upon execution by County's Board of Supervisors (the "Board"), unless sooner terminated or extended, in whole or in part, as provided in this Contract.

4.2 The County shall have the sole option to extend this Contract term for up to one (1) additional one-year period and twelve (12) month

to month extensions, for a maximum total Contract term of seven (7) years. Each such option and extension shall be exercised at the sole discretion of the Committees, or their designees, as authorized by the Board.

- 4.3 The County maintains databases that track/monitor contractor performance history. Information entered into such databases may be used for a variety of purposes, including determining whether the County will exercise a contract term extension option.
- 4.4 As the Contract approaches termination, of whatever kind, the County may determine that it may not be in the best interest of the Defined Contribution Program and the Participants to immediately terminate all services with the Contractor. The County reserves the right to notify the Contractor that it is to continue providing an adjusted level of service(s), as determined by the County, in its sole discretion, until transition to a new third party administrator and/or communication services provider is completed, and the Contractor agrees to enter into an Amendment with the County to provide such service(s) at the then existing rate(s), prorated accordingly.
- 4.5 The Contractor shall notify the County when this Contract is within eighteen (18) months from the expiration of the term as provided for hereinabove. Upon occurrence of this event, the Contractor shall send written notification to County at the address herein provided in Exhibit Q (County's Administration).

5.0 CONTRACT SUM

- 5.1 The Contractor shall be paid according to the schedule reflected in Exhibit B (Pricing Sheet).
- 5.2 The Contractor shall not be entitled to payment or reimbursement for any tasks or services performed, nor for any incidental or administrative expenses whatsoever incurred in or incidental to performance hereunder, except as set forth in Exhibit B (Pricing Sheet). Without limiting the foregoing, the Contractor shall only be paid for direct services to the Plans; consequently, the Contractor shall not invoice the County and no reimbursement will be made for any overhead expenses, project management services, or travel expenses whatsoever.

Assumption or takeover of any of the Contractor's duties, responsibilities, or obligations, or performance of same by any entity other than the Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever, shall occur only with the County's express prior written approval.

5.3 No Payment for Services Provided Following Expiration/Termination of Contract

The Contractor shall have no claim against County for payment of any money or reimbursement, of any kind whatsoever, for any service provided by the Contractor after the expiration or other termination of this Contract.

Should the Contractor receive payments after the expiration or termination of this Contract, except as provided above, the Contractor shall immediately notify County and shall immediately repay all such funds to County. Payment by County for services rendered after expiration/termination of this Contract shall not constitute a waiver of County's right to recover such payment from the Contractor. This provision shall survive the expiration or other termination of this Contract.

5.4 Invoices and Payments

5.4.1 The Contractor shall separately invoice the County monthly for TPA Services and Communication Services, only for providing the tasks, deliverables, goods, services, and other work specified in Exhibit A (Statement of Work), the Communications Budget, as approved by the Committee each year, and elsewhere hereunder. The Contractor shall prepare invoices, which shall include the charges owed to the Contractor by the County under the terms of this Contract. The invoice shall provide a detailed description of the services rendered to the Plans as of the last business day of the prior month. The Contractor's payments shall be as provided in Exhibit B (Pricing Sheet) or as provided elsewhere in this Contract, and the Contractor shall be paid only for the tasks, deliverables, goods, services, and other work approved in writing by the County. If the County does

not approve work in writing no payment shall be due to the Contractor for that work.

- 5.4.2 The Contractor's invoices shall be priced in accordance with Exhibit B (Pricing Sheet).
- 5.4.3 TPA Services invoices - The County shall authorize payment to the Contractor as set forth in Section 5.4.6 of this Contract in accordance with Exhibit A (Statement of Work) Section 6 (Administrative Accounts). Prior to the last business day of each month, on a day approved by the County, the Contractor shall deduct from individual Participant accounts (with the exception of Pension Savings Plan fees which are to be invoiced to the County and not deducted from Participant accounts) the per Participant TPA Services Fee established in Exhibit B (Pricing Sheet) and deposit the collected fees into the appropriate Administrative Account for each Plan. The aggregate collected fees should equal the charges reflected on the Contractor's TPA Services invoice for that corresponding month of service and, in the event of a discrepancy, the Contractor shall notify the County Project Manager. Collected fees shall remain in the Administrative Account until payment to the Contractor is authorized by the County.

The Contractor is solely responsible for deducting the per Participant fees from individual Participant accounts on a monthly basis (with the exception of Pension Savings Plan fees which are to be invoiced to the County and not deducted from Participant accounts). If the Contractor fails to collect such TPA Services Fees as provided herein, the Contractor shall waive any rights to such fees and shall hold harmless the individual Participants, the Plans, the County, the Board, the respective Committee and its members and staff from and against any and all claims for such unpaid fees and interest.

Committee Approved Core and Optional Communication Services invoices - Contractor shall provide a monthly invoice reflecting actual services provided during that month. Invoices shall itemize each communication deliverable and identify expenses corresponding to the

Contractor, sub-contractor (if any), production, collation, and postage. Itemization of invoices for Core Communication Services Costs shall correspond to the Core Communication Services Costs as set forth in Paragraph 3.2.2.

Should a Plan's communication deliverable exceed its itemized budget but the overall Budget for said Plan has an unused balance at the close of fiscal year-end, or, if later, after the final invoice for said fiscal-year's Communications Budget is received by the County's Project Manager, the excess charges may be payable at the discretion of the County's Project Manager. Total amount paid for communication deliverables shall not exceed the Committee approved fiscal year Communication Budget and/or Supplemental Communication Services Agreement(s).

5.4.4 The Contractor shall submit the monthly invoices to the County by the 15th calendar day of the month following the month of service.

5.4.5 All invoices under this Contract shall be submitted in two (2) copies to the following address:

County of Los Angeles
Chief Executive Office
500 W. Temple Street, Room #788
Los Angeles, CA 90012
Attention: Susan Moomjean

5.4.6 County Approval of Invoices

All invoices submitted by the Contractor for payment must be acceptable to the County in form (i.e., necessary level of detail and be properly allocated among the Plans), in its sole discretion, and have the written approval of the County's Project Director prior to any payment thereof. In no event shall the County be liable or responsible for any payment prior to such written approval.

Upon receipt of an invoice, or further information regarding an invoice, the County's Project Manager may reasonably reject or accept all or any part of invoiced costs. Contractor shall be notified by the County's Project Manager, in writing, of the invoiced costs rejected, and the reason or reasons for such rejection, and be given an opportunity to provide further information.

Upon the County's written approval for payment, the Contractor is solely responsible for issuing payment to itself pursuant to the Administrative Account and Banking Services procedures established in Exhibit A (Statement of Work), Sections 6.0 and 7.0. If the Contractor fails to collect such fees within 90 calendar days of the date the County approved the payment, the Contractor shall waive any rights to such fees and shall hold harmless the individual Participants, the Plans, the County, the Board, the respective Committee and its members and staff from and against any and all claims for such unpaid fees and interest.

6.0 ADMINISTRATION OF CONTRACT - COUNTY

COUNTY ADMINISTRATION

A listing of all County Administration referenced in the following subparagraphs are designated in Exhibit Q (County's Administration). The County shall notify the Contractor in writing of any change in the names or addresses shown.

6.1 County's Project Director

Responsibilities of the County's Project Director include:

- ensuring that the objectives of this Contract are met;
- authorizing subcontracting, as applicable, by the Contractor pursuant to Sub-paragraph 8.40 (Subcontracting);
- authorizing requests for payment;

- reviewing the Contractor's request to use the name of the County, the County Seal and Defined Contribution Program in publicity, in accordance with Sub-paragraph 8.37 (Publicity);
- notifying the Contractor of termination of the Contract.

6.2 County's Project Manager

The responsibilities of the County's Project Manager include:

- meeting with the Contractor's Project Manager on a regular basis;
- reviewing invoices for payment authorization;
- providing direction to the Contractor in the areas relating to County policy, information requirements, and procedural requirements;
- issuing all notices and demands from the County as provided in Sub-paragraph 8.34 (Notices).
- inspecting any and all tasks, deliverables, goods, services, or other work provided by or on behalf of the Contractor.

The County's Project Manager shall have the right at all times to inspect any and all work, tasks, deliverables, goods, services, and/or other consideration provided by or on behalf of Contractor to confirm that any technical standards and/or other requirements of Contractor's performance under this Contract are met. The County's Project Manager is not authorized to make any changes in any of the terms and conditions of this Contract and is not authorized to further obligate County in any respect whatsoever. The County's Project Manager reports to the County's Project Director.

6.3 County's Project Monitor

The County's Project Monitor is responsible for overseeing the day-to-day administration of this Contract including, without limitation, inspecting any and all tasks, deliverables, goods, services, or other work provided by or on behalf of the Contractor. The County's Project Monitor reports to the County's Project Manager.

7.0 ADMINISTRATION OF CONTRACT - CONTRACTOR

7.1 Contractor's Project Manager

- 7.1.1 Contractor shall designate one principal, Lisa Tilley, National Accounts Director as the Contractor's Project Manager, and said principal shall be the primary contact with the County and its staff.
- 7.1.2 The Contractor's Project Manager shall be responsible for the Contractor's day-to-day activities as related to this Contract and shall coordinate with County's Project Manager and County's Project Monitor on a regular basis.
- 7.1.3 The Contractor's Project Manager must have five years of experience as a defined contribution plan Relationship Manager with major clients or seven years of experience in the administration and operation of defined contribution plans.

Contractor's Communication Project Manager

- 7.1.4 Contractor shall designate one principal, Lisa Hoxha, Communications Consultant, as the Contractor's Communication Project Manager, and said principal shall be the primary contact with the Committee and its staff.
- 7.1.5 The Contractor's Communication Project Manager shall be responsible for Contractor's performance relating to Communication Services, assuring compliance with this Contract and responsible for deliverables including reports and presentations to the Committee.
- 7.1.6 The Contractor's Communication Project Manager shall meet with the Committee, CEO or designated staff, and other third parties involved with the Plan, at least quarterly (and as many additional times as required), for the purpose of providing advice on Plan communication policy and strategy, reviewing and deciding upon Plan communication materials, resolving business and

communication program issues, and discussing related matters.

7.2 Contractor's Staff and Approval by County

Contractor shall supply sufficient staff to discharge its responsibilities hereunder in a timely and efficient manner, including, without limitation, as required to comply with Exhibit A (Statement of Work).

In fulfillment of its responsibilities under this Contract, Contractor shall utilize, and permit utilization of, only staff fully trained and experienced, and as appropriate, licensed or certified in the technology, trades, and tasks required by this Contract.

Unless otherwise approved in writing by County's Project Manager, (i) all of Contractor's staff, or any Sub-contractor's staff, performing work under this Contract shall be adults who are legally eligible to work under the laws of the United States of America and the State of California; and (ii) all of Contractor's staff, or any Sub-contractor's staff performing work under this Contract shall perform such work within the United States of America, except for the enrollment, beneficiary and distribution services by the Contractor's Regina, Saskatchewan, Canada staff on the Contractor's recordkeeping system's servers located in Colorado as needed for excess volume and inclement weather. All of Contractor's staff, or any Sub-contractor's staff, who have direct contact with County or Participants (either by phone or written correspondence) shall be fully fluent in both spoken and written English.

Contractor represents and warrants that it shall, to the maximum extent possible, take all necessary steps to assure continuity over time of the membership of the group constituting Contractor's staff, including, but not limited to, Contractor's Contract Manager and Contractor's Communication Project Manager. Otherwise, Contractor shall promptly fill any staff vacancy with personnel having qualifications at least equivalent to those of the staff member(s) being replaced.

In the event Contractor should ever need to remove any staff from performing work under this Contract, Contractor shall provide the County's Project Manager with notice at least fifteen

(15) calendar days in advance, except in circumstances in which such timely notice is not possible, and shall work with the County's Project Manager on a mutually agreeable transition plan so as to provide an acceptable replacement and ensure project continuity.

County has the absolute right to approve or disapprove all of the Contractor's staff performing work hereunder and any proposed changes in the Contractor's staff, including, but not limited to, the Contractor's Project Manager, prior to, and during, their performing any work hereunder, as well as so approving or disapproving any proposed deletions from or other changes in such staff. The County may also require replacement of any member of the Contractor's staff performing, or offering to perform work hereunder, including, but not limited to, Contractor's Project Manager and Contractor's Communication Project Manager. Upon request of the County, the Contractor shall remove from performing work under this Contract any Contractor staff of which the County disapproves.

7.3 Notice to County of Contractor Organizational/Staffing Changes

Contractor shall notify the County Project Director within five (5) business days of any changes to the Contractor's corporate structure, including changes to the executives responsible for third party administrator retirement services and those managers that have material responsibility for the services provided under this Contract. The notice shall include the circumstances surrounding the changes and resumes of any new managers.

Contractor shall provide the County Project Director an organizational chart reflecting the Contractor's corporate hierarchy, functional units, and the managers and key staff responsible for Plan services. The organizational chart shall identify changes to the structure or staffing since the last submission.

7.4 Contractor's Compensation

Contractor acknowledges that compensation for all services provided to or related to the Defined Contribution Program shall be paid solely by the County or the Plans in accordance with provisions set forth in Paragraph 5.0 (Contract Sum).

- 7.4.1 Contractor shall not accept for Contractor's own account or the account of an affiliate, shareholder, employee, director, or agent of the Contractor, directly or indirectly, any form of compensation, including gratuity or services in-kind, from third parties for services directly or indirectly related to the Defined Contribution Program or individual Plan(s). In the event of a third party proposition, Contractor shall notify the County within five (5) business days of the proposition and disclose all facts of the proposed compensation arrangement; in no event shall Contractor accept such compensation from a third party.
- 7.4.2 Contractor acknowledges that any earnings generated by Plan assets or monetary savings due to Plan operations are to remain in the Plans for the sole benefit of Participants, except as otherwise provided in this sub-paragraph. In addition to record keeping relating to the investment growth within Participant accounts, the Contractor shall identify all forms of revenue and interest earnings generated by Plan assets in individual and Plan accounts, including but not limited to 12b-1 fees and other rebates, sub-transfer agent fees, and interest earnings generated from the balances within the Defined Contribution Program's bank accounts and Administrative Accounts. Revenue shall be deposited into the appropriate Plan Administrative Account(s) in accordance with Exhibit A (Statement of Work). If the Contractor has questions about where the revenue or interest earnings should be credited, the Contractor shall contact the County Project Manager for deposit instructions. Contractor shall waive any claim to earnings or savings generated by Plan assets.
- 7.4.3 To the extent the self-directed brokerage account ("SDBA") provider cannot separately report to the Contractor the revenue attributable to the SDBA assets of individual plans, the Contractor agrees that all revenues generated by the SDBA will be used to reduce the Contractor's per-Participant linkage fees for providing the SDBA and shall notify County that Plan-level reporting of the revenues directly generated by the SDBA is not available. The Contractor agrees to work with the County Project Manager to develop a meaningful method of reporting to the County

the quarterly revenues earned by Contractor and attributable to the SDBA assets.

7.5 Contractor's Staff Compensation

7.5.1 Pursuant to Sub-paragraph 8.22 (Independent Contractor Status), the Contractor shall be solely responsible for the compensation of the Contractor's staff providing services pursuant to this Contract, including but not limited to the Defined Contribution Program and Participants.

7.5.2 Contractor shall provide the Contractor's staff with a salary and benefits package necessary to retain talent that is competitive within the investment/retirement industry.

7.5.3 Contractor's staff shall not be compensated by commission nor solicit additional fee(s) for services pursuant to this Contract, including but not limited to the Defined Contribution Program and Participants. The Contractor shall immediately notify the County's Project Manager of any violation of this provision.

7.6 Contractor's Staff Identification

Contractor shall provide, at Contractor's expense, all Contractors' staff providing services under this Contract at a County facility with a photo identification badge. The badge shall include the name of both the Contractor and staff. The badge shall not include the County seal.

7.7 Background and Security Investigations

At any time during the term of this Contract, the County may require that all Contractor's staff performing work under this Contract undergo and pass a background investigation, as a condition of beginning and continuing to work under this Contract. Any background investigation requested by the County shall comply with applicable federal, state, or local employment, labor, or right to privacy laws and Contractor shall implement any proper County request consistent with such laws.

- 7.7.1 All costs associated with the background investigation shall be the expense of the Contractor, regardless if the Contractor's staff passes or fails the background clearance investigation. The method of the background investigation shall be as set forth in the Employee Background Check Procedures included as Exhibit S1 subject to changes as mutually agreed to by the County and Contractor. Contractor shall review its procedures annually to identify any changes from those outlined in Exhibit S1 and notify the County of such changes.
- 7.7.2 Without limiting Sub-paragraph 7.2 (Contractor's Staff and Approval by County), County may require, consistent with applicable law, that any of the Contractor's staff be immediately removed from working on the Contract at any time during the Transition Period, and Contractor shall remove and replace such staff to County's satisfaction.
- 7.7.3 County may deny or terminate facility access to the Contractor's staff whose background or conduct is determined by the County, in its sole discretion and consistent with applicable law, to be incompatible with County facility access.
- 7.7.4 Disqualification of any member of Contractor's staff pursuant to this Sub-paragraph 7.7 shall not relieve Contractor of its obligation to complete all work in accordance with the terms and conditions of this Contract.

7.8 Confidentiality

- 7.8.1 Contractor shall maintain the confidentiality of all records and information in accordance with all applicable Federal, State and local laws, rules, regulations, and ordinances relating to confidentiality, and the protection of confidential records and information.
- 7.8.2 Contractor shall indemnify, defend, and hold harmless County, its officers, employees, and agents, from and against any and all claims, demands, damages, liabilities, losses, costs and expenses, including, without limitation, defense costs and legal, accounting and other expert,

consulting, or professional fees, arising from, connected with, or related to any failure by Contractor, its officers, employees, agents, or subcontractors, to comply with this Sub-paragraph 7.8, as determined by County in its sole judgment. Any legal defense pursuant to Contractor's indemnification obligations under this Sub-paragraph 7.8 shall be conducted by Contractor and performed by counsel selected by Contractor and approved by County. Notwithstanding the preceding sentence, County shall have the right to participate in any such defense at its sole cost and expense, except that in the event Contractor fails to provide County with a full and adequate defense, as determined by County in its reasonable judgment, County shall be entitled to retain its own counsel, including, without limitation, County Counsel, and reimbursement from Contractor for all such costs and expenses incurred by County in doing so. Contractor shall not have the right to enter into any settlement, agree to any injunction, or make any admission, in each case, on behalf of County without County's reasonable prior written approval.

7.8.3 Contractor shall inform all of its officers, employees, agents and subcontractors providing services hereunder of the confidentiality provisions of this Contract.

7.8.4 **Intentionally Omitted.**

7.8.5 Contractor shall cause each employee performing services covered by this Contract to sign and adhere to the provisions of the "Contractor Employee Code of Conduct Summary", Exhibit S2.

7.8.6 Contractor shall cause each non-employee performing services covered by this Contract to sign and adhere to the provisions of the "Contractor Vendor Code of Conduct", Exhibit S3.

7.9 SECURITY AND PRIVACY OF CONFIDENTIAL INFORMATION

7.9.1. Contractor shall not cause any unplanned interruption of the operations of, or accessibility to the System or any component of the System through any device, method or

means including the use of any "virus," "lockup," "time bomb," or "key lock," "worm," device or program, or disabling code (each a "Disabling Device"), which has the potential or capability of compromising the security of any information that could be utilized to uniquely identify a Participant or of any County confidential or proprietary information (collectively "Confidential Information") or of causing any unplanned interruption of the accessibility of the System or any component of the System by Participant or which could alter, destroy, or inhibit the use of the System, any component of the System, or the data contained therein. Contractor represents, warrants and agrees that it has not purposely placed, nor is it aware of, any Disabling Device on the System or any component of the System, nor shall Contractor knowingly permit any modified or new component of the System to contain any Disabling Device.

7.9.2 Contractor shall implement practices and procedures consistent with guidance defined in International Organization for Standardization security standard 27002, section 10.4.1, as in effect from time to time, to prevent Disabling Devices from being incorporated or introduced into the System or any component of the System by Contractor or any third party and to detect Disabling Devices in the event preventive measures fail.

7.9.3 Contractor shall maintain comprehensive data security procedures and practices appropriate to the nature of the Confidential Information, which shall include, but not be limited to, reasonable and appropriate technical, organizational, administrative and other security measures, to protect the Confidential Information from unauthorized access, destruction, use, modification, or disclosure. The content and implementation of the data security program and associated technical, organizational, administrative and security measures shall be fully documented in writing by Contractor, and Contractor shall provide comprehensive training on the data security program to all parties granted access to the Confidential Information. The documentation shall address control architecture, encryption and data separation procedures, access control and verification, the presence or absence of audit trails, System testing and

monitoring, disaster recovery and back-up, and program responsibility, among other items.

- 7.9.4 Under no circumstances shall Contractor make any changes in its technical, organizational, administrative and other security measures that materially weaken any technical, organizational, administrative or other security measure in place to safeguard the Confidential Information or result in Contractor's failure to meet any of the minimum standards set forth in this Contract.
- 7.9.5 Without limiting Sub-paragraph 8.6 (Compliance with Applicable Law), Contractor shall comply with all applicable Federal, State and local laws, rules, regulations, ordinances, policies, guidelines and directives (in this Sub-paragraph 7.9, "Laws") relating to incidents which compromise, are reasonably believed to have compromised, or may potentially compromise, the security, confidentiality and/or integrity of any Confidential Information (collectively in this Sub-paragraph 7.9, "Security Incidents"), including without limitation, California Civil Code Sections 1798.82 and 1798.29. Under no circumstances will this Sub-paragraph 7.9 be deemed to confer upon County responsibility for Contractor's compliance with all applicable Laws.
- 7.9.6 Also without limiting Sub-paragraph 8.6 (Compliance with Applicable Law), in connection with the occurrence of any Security Incident with respect to the System, Contractor shall (a) no later than forty-eight (48) hours of the occurrence of such Security Incident, provide County's Project Manager and County's Chief Information Security Officer at (562) 940-3335 and CISOnotify@cio.lacounty.gov with telephonic and written notification detailing such Security Incident, (b) investigate (with County's participation if so desired by County) such Security Incident, (c) perform a root cause analysis and prepare a corrective action plan if applicable, (d) provide written reports of its findings and proposed actions to County for its review, (e) to the extent such Security Incident is within Contractor's areas of control, remediate such Security Incident or potential Security Incident and prevent its, (f) providing mutually agreed-upon notices that County deems appropriate to affected data

subjects, government agencies, credit bureaus and other entities, and (g) reasonably cooperate with County in any litigation and investigation against third parties deemed necessary by County to protect the Confidential Information. Contractor shall be responsible for all costs it incurs as a result of compliance with the above requirements (including document production, delivery and data subjects' file retention costs) to the extent such Security Breach is caused by Contractor's failure to comply with its security obligations hereunder. No later than ten (10) business days of County's Project Manager's request therefor, Contractor shall make the staff responsible for compliance with the Contractor's data security procedures and practices available for a conference call with County staff to discuss each Security Incident and the response to such Security Incident, which response shall include, but not be limited to, the steps taken (a) to prevent the reoccurrence of such a Security Incident and (b) to comply with the provisions of this Sub-paragraph 7.9 with respect to such Security Incident.

- 7.9.7 Without limiting any provisions of this Contract, to the extent a Security Incident results from Contractor's failure to meet the security standards set forth in this Contract, Contractor shall bear in addition to any other costs, expenses, or damages for which Contractor may be liable for under this Contract, the following costs incurred by County in responding to such Security Incident or breach, to the extent applicable: (i) the cost of providing notice (including document production, delivery and data subjects' file retention costs) to affected individuals, (ii) the cost of providing notice to government agencies, credit bureaus, and other required entities, (iii) the cost of providing affected individuals with credit monitoring or restoration services for a minimum of 12 months or such longer minimum period required by applicable Law, to the extent the Security Incident or breach could lead to a compromise of the any Participant's credit or credit standing, (iv) the cost of providing toll-free call center support for such affected individuals for a period as required by the County and as mutually agreed to by the parties, (v) the cost of any other measures required under applicable Law, and (vi) any other damages for which Contractor would be liable under this

Contract, including, but not limited to costs incurred by issuing banks to restore or correct the affected Participants' credit or credit standing. Contractor shall, within sixty (60) days of the occurrence of a Security Incident or breach, and monthly thereafter, also provide County's Chief Information Security Officer with a full accounting of all costs incurred to date relating to such Security Incident or breach.

7.9.8 Intentionally Omitted

8.0 STANDARD TERMS AND CONDITIONS

8.1 AMENDMENTS

- 8.1.1 Unless provided elsewhere within this Contract, for any change which affects the scope of work, service, term, Contract Sum, payments, or any term or condition included under this Contract, an amendment ("Amendment") shall be prepared and executed by the Contractor and by the Chief Executive Officer or his designee.
- 8.1.2 The County's Board of Supervisors or CEO or designee may require the addition and/or change of certain terms and conditions in the Contract during the term of this Contract. The County reserves the right to add and/or change such provisions as required by the County's Board of Supervisors or CEO. To implement such changes, an Amendment to the Contract shall be prepared and executed by the Contractor and by the CEO.
- 8.1.3 The Committees, or their designees, may at their sole discretion, authorize extensions of time as defined in Paragraph 4.0 (Term of Contract). The Contractor agrees that such extensions of time shall not change any other term or condition of this Contract during the period of such extensions. To implement an extension of time, an Amendment to the Contract shall be prepared and executed by the Contractor and by the Committees' Chair.
- 8.1.4 **IMPLEMENTING MEMORANDA.** The County and Contractor recognize that a close degree of cooperation will be required to implement the services detailed in this

Contract. The parties further recognize that a certain amount of flexibility will be required to adapt to presently unforeseen circumstances and to improve administration of the Defined Contribution Program. To preserve such flexibility, certain items have been covered in this Contract in general terms only with the understanding that details are to be set forth in an implementing memoranda amendment ("Implementing Memoranda") to be executed at a later date. Implementing Memoranda shall also be used to clarify or extrapolate additional details of services already described within this Contract. Each Implementing Memoranda shall be approved and executed by the CEO or designee, and the Contractor, and shall be attached hereto as an addendum to the Contract and become part of the Contract. The Implementing Memoranda may be changed and amended from time to time as necessary with the approval and execution of the CEO or designee, and the Contractor.

8.1.5 AMENDMENTS FOR ADDITIONAL SERVICES. The CEO or designee is authorized to negotiate with the Contractor for any additional unanticipated but necessary work for the Defined Contribution Program, other than Communication Services, that is not reflected in Exhibit A (Statement of Work) ("Additional Services"). Contractor's hourly billing rate for Additional Services, as set forth in Exhibit B (Pricing Sheet), shall be used as the basis for determining the Contractor's cost, if any, of the Additional Services. Such Additional Service(s) shall be set forth in writing and executed as follows: the CEO or designee is authorized to negotiate an additional services agreement ("Additional Services Agreement") provided that (1) the cost, if any, to each Plan for each Additional Services Agreement does not exceed \$75,000 in any one fiscal year, and (2) the aggregate fiscal year cost, if any, to each Plan of all Additional Services Agreements with the Contractor that are authorized by the CEO or designee during each fiscal year does not exceed \$300,000.

8.1.6 AMENDMENTS FOR SUPPLEMENTAL COMMUNICATION SERVICES. The CEO or designee is authorized to negotiate with the Contractor and amend the Communications Budget for any additional unanticipated but

necessary Communication Services, that may or may not be reflected in the Communications Budget ("Supplemental Communication Services"). Contractor's hourly billing rate for Supplemental Communication Services, as set forth in Exhibit B (Pricing Sheet), shall be used as the basis for determining the Contractor's cost, if any, of the Supplemental Communication Services. Such Supplemental Communication Services shall be set forth in writing and executed as follows: the CEO or designee is authorized to negotiate a supplemental Communication Services agreement ("Supplemental Communication Services Agreement") that revises the Communications Budget, provided that (1) the cost, if any, to each Plan for each Supplemental Communication Services Agreement does not exceed \$75,000 in any one fiscal year, and (2) the aggregate fiscal year cost, if any, to each Plan of all Supplemental Communication Services Agreements with the Contractor that are authorized by the CEO or designee during each fiscal year does not exceed \$300,000.

- 8.1.7 The Committees, or their designees, will have the authority to revise the content and cost of the Communication Services.

8.2 ASSIGNMENT AND DELEGATION

- 8.2.1 The Contractor shall not assign its rights or delegate its duties under this Contract, or both, whether in whole or in part, without the prior written consent of County, in its discretion, and any attempted assignment or delegation without such consent shall be null and void. For purposes of this sub-paragraph, County consent shall require a written amendment to the Contract, which is formally approved and executed by the parties. Any payments by the County to any approved delegate or assignee on any claim under this Contract shall be deductible, at County's sole discretion, against the claims, which the Contractor may have against the County.
- 8.2.2 Shareholders, partners, members, or other equity holders of Contractor may transfer, sell, exchange, assign, or divest themselves of any interest they may have therein.

However, in the event any such sale, transfer, exchange, assignment, or divestment is effected in such a way as to give majority control of Contractor to any person(s), corporation, partnership, or legal entity other than the majority controlling interest therein at the time of execution of the Contract, Contractor shall provide applicable notice to the County as soon as practicable and in accordance with applicable law and such disposition is an assignment requiring the prior written consent of County in accordance with applicable provisions of this Contract.

- 8.2.3 Any assumption, assignment, delegation, or takeover of any of the Contractor's duties, responsibilities, obligations, or performance of same by any entity other than the Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever without County's express prior written approval, shall be a material breach of the Contract which may result in the termination of this Contract. In the event of such termination, County shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of default by Contractor.

8.3 AUTHORIZATION WARRANTY

The Contractor represents and warrants that the person executing this Contract for the Contractor is an authorized agent who has actual authority to bind the Contractor to each and every term, condition, and obligation of this Contract and that all requirements of the Contractor have been fulfilled to provide such actual authority.

8.4 BUDGET REDUCTIONS

In the event that the County's Board of Supervisors adopts, in any fiscal year, a County Budget which provides for reductions in the salaries and benefits paid to the majority of County employees and imposes similar reductions with respect to County Contracts, the County reserves the right to reduce its payment obligation under this Contract correspondingly for that fiscal year and any subsequent fiscal year during the term of this Contract (including any extensions), and the services to be provided by the Contractor

under this Contract shall also be reduced correspondingly. The County's notice to the Contractor regarding said reduction in payment obligation shall be provided within thirty (30) calendar days of the Board's approval of such actions. Except as set forth in the preceding sentence, the Contractor shall continue to provide all of the services set forth in this Contract.

8.5 COMPLAINTS

The Contractor shall develop, maintain and operate procedures for receiving, investigating and responding to complaints.

- 8.5.1 Within thirty (30) business days after Contract effective date, the Contractor shall provide the County with the Contractor's policy for receiving, investigating and responding to user complaints.
- 8.5.2 The County will review the Contractor's policy and provide the Contractor with approval of said plan or with requested changes.
- 8.5.3 If the County requests changes in the Contractor's policy, the Contractor shall make such changes and resubmit the plan within five (5) business days for County approval.
- 8.5.4 If, at any time, the Contractor wishes to change the Contractor's policy, the Contractor shall submit proposed changes to the County for approval before implementation.
- 8.5.5 The Contractor shall investigate all complaints and provide a summary within the Quarterly Administrative Report, as specified in Exhibit A (Statement of Work). The complaint summary shall be in a format approved by the County and will include complaints received in-person, by telephone and written correspondence, the number of complaints, the subject matter, and status.
- 8.5.6 When complaints cannot be resolved informally, a system of follow-through shall be instituted which adheres to formal plans for specific actions and strict time deadlines.

- 8.5.7 Copies of all written responses shall be included in the Quarterly Administrative Report with Participant names omitted.

8.6 COMPLIANCE WITH APPLICABLE LAW

- 8.6.1 In the performance of this Contract, Contractor shall comply with all applicable Federal, State and local laws, rules, regulations, ordinances, directives, guidelines, policies and procedures, and all provisions required thereby to be included in this Contract are hereby incorporated herein by reference. As specified in Exhibit A (Statement of Work), Contractor also agrees to comply with (i) the disclosure requirements for service providers set forth in 29 C.F.R. Section 2550.408b-2(c) that would apply if the Plans were subject to ERISA; and (ii) the disclosure requirements applicable to plans governed by ERISA, including but not limited to the disclosure requirements that must be satisfied in order for fiduciaries to be relieved from liability under ERISA Section 404(c), as though ERISA applied. The Contractor also agrees to comply with the ERISA Section 404 to the extent such section would apply to Contractor if the Plans were subject to ERISA. The foregoing ERISA provisions shall be treated as applicable law for the purposes of this Section 8.6.
- 8.6.2 Contractor shall indemnify, defend, and hold harmless County, its officers, employees, and agents, from and against any and all claims, demands, damages, liabilities, losses, costs, and expenses, including, without limitation, defense costs and legal, accounting and other expert, consulting or professional fees, arising from, connected with, or related to any failure by Contractor, its officers, employees, agents, or subcontractors, to comply with any such laws, rules, regulations, ordinances, directives, guidelines, policies, or procedures, as determined by County in its sole judgment. Any legal defense pursuant to Contractor's indemnification obligations under this Subparagraph 8.6 shall be conducted by Contractor and performed by counsel selected by Contractor and approved

by County. Notwithstanding the preceding sentence, County shall have the right to participate in any such defense at its sole cost and expense, except that in the event Contractor fails to provide County with a full and adequate defense, as determined by County in its sole judgment, County shall be entitled to retain its own counsel, including, without limitation, County Counsel, and reimbursement from Contractor for all such costs and expenses incurred by County in doing so. Contractor shall not have the right to enter into any settlement, agree to any injunction or other equitable relief, or make any admission, in each case, on behalf of County without County's prior written approval.

8.7 COMPLIANCE WITH CIVIL RIGHTS LAWS

The Contractor hereby assures that it will comply with Subchapter VI of the Civil Rights Act of 1964, 42 USC Sections 2000 (e) (1) through 2000 (e) (17), to the end that no person shall, on the grounds of race, creed, color, sex, religion, ancestry, age, condition of physical handicap, marital status, political affiliation, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Contract or under any project, program, or activity supported by this Contract. The Contractor shall comply with Exhibit D (Contractor's EEO Certification).

8.8 COMPLIANCE WITH THE COUNTY'S JURY SERVICE PROGRAM

8.8.1 Jury Service Program:

This Contract is subject to the provisions of the County's ordinance entitled Contractor Employee Jury Service ("Jury Service Program") as codified in Sections 2.203.010 through 2.203.090 of the Los Angeles County Code, a copy of which is attached as Exhibit H and incorporated by reference into and made a part of this Contract.

8.8.2 Written Employee Jury Service Policy.

1. Unless the Contractor has demonstrated to the County's satisfaction either that the Contractor is not a "Contractor" as defined under the Jury Service Program (Section 2.203.020 of the County Code) or that the Contractor qualifies for an exception to the Jury Service Program (Section 2.203.070 of the County Code), the Contractor shall have and adhere to a written policy that provides that its Employees shall receive from the Contractor, on an annual basis, no less than five days of regular pay for actual jury service. The policy may provide that Employees deposit any fees received for such jury service with the Contractor or that the Contractor deduct from the Employee's regular pay the fees received for jury service.
2. For purposes of this sub-paragraph, "Contractor" means a person, partnership, corporation or other entity which has a contract with the County or a subcontract with a County Contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more County contracts or subcontracts. "Employee" means any California resident who is a full-time employee of the Contractor. "Full-time" means 40 hours or more worked per week, or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by the County, or 2) Contractor has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of 90 days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program. If the Contractor uses any Subcontractor to perform services for the County under the Contract, the Subcontractor shall also be subject to the provisions of this sub-paragraph. The provisions of this sub-paragraph shall be inserted into any such subcontract agreement and a copy of the Jury Service Program shall be attached to the agreement.
3. If the Contractor is not required to comply with the Jury Service Program when the Contract commences, the Contractor shall have a continuing obligation to review

the applicability of its "exception status" from the Jury Service Program, and the Contractor shall immediately notify the County if the Contractor at any time either comes within the Jury Service Program's definition of "Contractor" or if the Contractor no longer qualifies for an exception to the Jury Service Program. In either event, the Contractor shall immediately implement a written policy consistent with the Jury Service Program. The County may also require, at any time during the Contract and at its sole discretion, that the Contractor demonstrate, to the County's satisfaction that the Contractor either continues to remain outside of the Jury Service Program's definition of "Contractor" and/or that the Contractor continues to qualify for an exception to the Program.

4. Contractor's violation of this sub-paragraph of the Contract may constitute a material breach of the Contract. In the event of such material breach, County may, in its sole discretion, terminate the Contract and/or bar the Contractor from the award of future County contracts for a period of time consistent with the seriousness of the breach.

8.9 CONFLICT OF INTEREST

- 8.9.1 No County employee whose position with the County enables such employee to influence the award of this Contract or any competing Contract, and no spouse or economic dependent of such employee, shall be employed in any capacity by the Contractor or have any other direct or indirect financial interest in this Contract. No officer or employee of the Contractor who may financially benefit from the performance of work hereunder shall in any way participate in the County's approval, or ongoing evaluation, of such work, or in any way attempt to unlawfully influence the County's approval or ongoing evaluation of such work.
- 8.9.2 The Contractor shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Contract. The Contractor warrants that it is not now aware of any facts

that create a conflict of interest. If the Contractor hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to the County. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances. Failure to comply with the provisions of this sub-paragraph shall be a material breach of this Contract.

**8.10 CONSIDERATION OF HIRING COUNTY EMPLOYEES
TARGETED FOR LAYOFF/OR RE-EMPLOYMENT LIST**

Should the Contractor require additional or replacement personnel after the effective date of this Contract to perform the services set forth herein, the Contractor shall give first consideration for such employment openings to qualified, permanent County employees who are targeted for layoff or qualified, former County employees who are on a re-employment list during the life of this Contract.

**8.11 CONSIDERATION OF HIRING GAIN/GROW PROGRAM
PARTICIPANTS**

8.11.1 Should the Contractor require additional or replacement personnel after the effective date of this Contract, the Contractor shall give consideration for any such employment openings to Participants in the County's Department of Public Social Services Greater Avenues for Independence (GAIN) Program or General Relief Opportunity for Work (GROW) Program who meet the Contractor's minimum qualifications for the open position. For this purpose, consideration shall mean that the Contractor will interview qualified candidates. The County will refer GAIN/GROW Participants by job category to the Contractor.

8.11.2 In the event that both laid-off County employees and GAIN/GROW Participants are available for hiring, County employees shall be given first priority.

8.12 CONTRACTOR RESPONSIBILITY AND DEBARMENT

8.12.1 Responsible Contractor

A responsible Contractor is a Contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the contract. It is the County's policy to conduct business only with responsible Contractors.

8.12.2 Chapter 2.202 of the County Code

The Contractor is hereby notified that, in accordance with Chapter 2.202 of the County Code, if the County acquires information concerning the performance of the Contractor on this or other contracts which indicates that the Contractor is not responsible, the County may, in addition to other remedies provided in the Contract, debar the Contractor from bidding or proposing on, or being awarded, and/or performing work on County contracts for a specified period of time, which generally will not exceed five years but may exceed five years or be permanent if warranted by the circumstances, and terminate any or all existing Contracts the Contractor may have with the County.

8.12.3 Non-responsible Contractor

The County may debar a Contractor if the Board of Supervisors finds, in its discretion, that the Contractor has done any of the following: (1) violated a term of a contract with the County or a nonprofit corporation created by the County, (2) committed an act or omission which negatively reflects on the Contractor's quality, fitness or capacity to perform a contract with the County, any other public entity, or a nonprofit corporation created by the County, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the County or any other public entity.

8.12.4 Contractor Hearing Board

1. If there is evidence that the Contractor may be subject to debarment, the Chief Executive Office ("Department") will notify the Contractor in writing of the evidence which is the basis for the proposed debarment and will advise the Contractor of the scheduled date for a debarment hearing before the Contractor Hearing Board.
2. The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Contractor and/or the Contractor's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a tentative proposed decision, which shall contain a recommendation regarding whether the Contractor should be debarred, and, if so, the appropriate length of time of the debarment. The Contractor and the Department shall be provided an opportunity to object to the tentative proposed decision prior to its presentation to the Board of Supervisors.
3. After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision, and any other recommendation of the Contractor Hearing Board shall be presented to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.
4. If a Contractor has been debarred for a period longer than five (5) years, that Contractor may after the debarment has been in effect for at least five (5) years, submit a written request for review of the debarment determination to reduce the period of debarment or terminate the debarment. The County may, in its discretion, reduce the period of debarment or terminate the debarment if it finds that the Contractor has adequately demonstrated one or more of the following: (1) elimination of the grounds for which the debarment was imposed; (2) a bona fide

change in ownership or management; (3) material evidence discovered after debarment was imposed; or (4) any other reason that is in the best interests of the County.

5. The Contractor Hearing Board will consider a request for review of a debarment determination only where (1) the Contractor has been debarred for a period longer than five (5) years; (2) the debarment has been in effect for at least five (5) years; and (3) the request is in writing, states one or more of the grounds for reduction of the debarment period or termination of the debarment, and includes supporting documentation. Upon receiving an appropriate request, the Contractor Hearing Board will provide notice of the hearing on the request. At the hearing, the Contractor Hearing Board shall conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is presented. This hearing shall be conducted and the request for review decided by the Contractor Hearing Board pursuant to the same procedures as for a debarment hearing.
6. The Contractor Hearing Board's proposed decision shall contain a recommendation on the request to reduce the period of debarment or terminate the debarment. The Contractor Hearing Board shall present its proposed decision and recommendation to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.

8.12.5 Subcontractors of Contractor

These terms shall also apply to Subcontractors of County Contractors.

8.13 CONTRACTOR'S ACKNOWLEDGEMENT OF COUNTY'S COMMITMENT TO THE SAFELY SURRENDERED BABY LAW

The Contractor acknowledges that the County places a high priority on the implementation of the Safely Surrendered Baby Law. The Contractor understands that it is the County's policy to encourage all County Contractors to voluntarily post the County's "Safely Surrendered Baby Law" poster in a prominent position at the Contractor's place of business. The Contractor will also encourage its Subcontractors, if any, to post this poster in a prominent position in the Subcontractor's place of business. The County's Department of Children and Family Services will supply the Contractor with the poster to be used. Information on how to receive the poster can be found on the Internet at www.babysafela.org.

8.14 CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM

8.14.1 The Contractor acknowledges that the County has established a goal of ensuring that all individuals who benefit financially from the County through Contract are in compliance with their court-ordered child, family and spousal support obligations in order to mitigate the economic burden otherwise imposed upon the County and its taxpayers.

8.14.2 As required by the County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting the Contractor's duty under this Contract to comply with all applicable provisions of law, the Contractor warrants that it is now in compliance and shall during the term of this Contract maintain in compliance with employment and wage

reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or Child Support Services Department Notices of Wage and Earnings Assignment for Child, Family or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

8.15 COUNTY'S QUALITY ASSURANCE PLAN

The County or its agent will evaluate the Contractor's performance

under this Contract on not less than an annual basis. Such evaluation will include assessing the Contractor's compliance with all Contract terms and conditions and performance standards. Contractor deficiencies which the County determines are severe or continuing and that may place performance of the Contract in jeopardy if not corrected will be reported to the Board of Supervisors.

The report will include improvement/corrective action measures taken by the County and the Contractor. If improvement does not occur consistent with the corrective action measures, the County may terminate this Contract or impose other penalties as specified in this Contract.

8.16 DAMAGE TO COUNTY FACILITIES, BUILDINGS OR GROUNDS

8.16.1 The Contractor shall repair, or cause to be repaired, at its own cost, any and all damage to County facilities, buildings, or grounds caused by the Contractor or employees or agents of the Contractor. Such repairs shall be made immediately after the Contractor has become aware of such damage, but in no event later than thirty (30) days after the occurrence.

8.16.2 If the Contractor fails to make timely repairs, County may make any necessary repairs. All costs incurred by County, as determined by County, for such repairs shall be repaid by the Contractor by cash payment upon demand.

8.17 EMPLOYMENT ELIGIBILITY VERIFICATION

8.17.1 The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirements set forth in Federal and State statutes and regulations. The Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal and State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, (P.L. 99-603), or as they currently exist and as they may be hereafter amended. The

Contractor shall retain all such documentation for all covered employees for the period prescribed by law.

8.17.2 The Contractor shall indemnify, defend, and hold harmless, the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.

8.18 FACSIMILE REPRESENTATIONS

The County and the Contractor hereby agree to regard facsimile representations of original signatures of authorized officers of each party, when appearing in appropriate places on Amendments, including but not limited to Implementing Memoranda, Additional Services Agreements, and Supplemental Communication Services Agreements prepared pursuant to Sub-paragraph 8.1 (Amendments), and received via communication facilities, as legally sufficient evidence that such original signatures have been affixed to Amendments to this Contract, such that the parties need not follow up facsimile transmissions of such documents with subsequent (non-facsimile) transmission of "original" versions of such documents.

8.19 FAIR LABOR STANDARDS

The Contractor shall comply with all applicable provisions of the Federal Fair Labor Standards Act and shall indemnify, defend, and hold harmless the County and its agents, officers, and employees from any and all liability, including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorneys' fees arising under any wage and hour law, including, but not limited to, the Federal Fair Labor Standards Act, for work performed by the Contractor's employees for which the County may be found jointly or solely liable.

8.20 FORCE MAJEURE

- 8.20.1 Neither party shall be liable for such party's failure to perform its obligations under and in accordance with this Contract, if such failure arises out of fires, floods, epidemics, quarantine restrictions, other natural occurrences, strikes, lockouts (other than a lockout by such party or any of such party's subcontractors), freight embargoes, or other similar events to those described above, but in every such case the failure to perform must be totally beyond the control and without any fault or negligence of such party (such events are referred to in this sub-paragraph as "force majeure events").
- 8.20.2 Notwithstanding the foregoing, a default by a subcontractor of Contractor shall not constitute a force majeure event, unless such default arises out of causes beyond the control of both Contractor and such subcontractor, and without any fault or negligence of either of them. In such case, Contractor shall not be liable for failure to perform, unless the goods or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit Contractor to meet the required performance schedule. As used in this sub-paragraph, the term "subcontractor" and "subcontractors" mean subcontractors at any tier.
- 8.20.3 In the event Contractor's failure to perform arises out of a force majeure event, Contractor agrees to use commercially reasonable best efforts to obtain goods or services from other sources, if applicable, and to otherwise mitigate the damages and reduce the delay caused by such force majeure event.

8.21 GOVERNING LAW, JURISDICTION, AND VENUE

This Contract shall be governed by, and construed in accordance with, the laws of the State of California. The Contractor agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this Contract and further agrees and consents that venue of any action brought hereunder shall be exclusively in the County of Los Angeles.

8.22 INDEPENDENT CONTRACTOR STATUS

- 8.22.1 This Contract is by and between the County and the Contractor and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between the County and the Contractor. The employees and agents of one party shall not be, or be construed to be, the employees or agents of the other party for any purpose whatsoever.
- 8.22.2 The Contractor shall be solely liable and responsible for providing to, or on behalf of, all persons performing work pursuant to this Contract all compensation and benefits. The County shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, disability benefits, Federal, State, or local taxes, or other compensation, benefits, or taxes for any personnel provided by or on behalf of the Contractor.
- 8.22.3 The Contractor understands and agrees that all persons performing work pursuant to this Contract are, for purposes of Workers' Compensation liability, solely employees of the Contractor and not employees of the County. The Contractor shall be solely liable and responsible for furnishing any and all Workers' Compensation benefits to any person as a result of any injuries arising from or connected with any work performed by or on behalf of the Contractor pursuant to this Contract.
- 8.22.4 The Contractor shall adhere to the provisions stated in Subparagraph 7.8 (Confidentiality).

8.23 INDEMNIFICATION

The Contractor shall indemnify, defend and hold harmless each Plan and the respective Committees and members and staff, the Defined Contribution Program as a whole, the County, its Special Districts, elected and appointed officers, employees, agents, fiduciaries and volunteers ("County Indemnitees"), (excluding Contractor) from and against any and all liability, including but not limited to demands, claims, actions, fees, costs and expenses (including attorney and expert witness fees), arising from and/or relating to the Contractor's acts and/or omissions relating to this Contract, except for and to the extent such loss or damage is

attributable to County Indemnitees or direction of any third party retained by the County Indemnitees to provide services relating to the Plan, including but not limited to an investment advisor, or any authorized agent thereof.

8.24 GENERAL PROVISIONS FOR ALL INSURANCE COVERAGE

Without limiting Contractor's indemnification of County, and in the performance of this Contract and until all of its obligations pursuant to this Contract have been met, Contractor shall provide and maintain at its own expense insurance coverage satisfying the requirements specified in Sub-paragraphs 8.24 and 8.25 of this Contract. These minimum insurance coverage terms, types and limits (the "Required Insurance") also are in addition to and separate from any other contractual obligation imposed upon Contractor pursuant to this Contract. The County in no way warrants that the Required Insurance is sufficient to protect the Contractor for liabilities which may arise from or relate to this Contract.

8.24.1 Evidence of Coverage and Notice to County

- Certificate(s) of insurance coverage (Certificate) satisfactory to County, and a copy of an Additional Insured endorsement confirming County and its Agents (defined below) has been given Insured status under the Contractor's General Liability policy, shall be delivered to County at the address shown below and provided prior to commencing services under this Contract.
- Renewal Certificates shall be provided to County not less than 10 days prior to Contractor's policy expiration dates. The County reserves the right to obtain complete, certified copies of any required Contractor and/or Sub-contractor insurance policies at any time.
- Certificates shall identify all Required Insurance coverage types and limits specified herein, reference this Contract by name or number, and be signed by an authorized representative of the insurer(s). The Insured party named on the Certificate shall match the name of

the Contractor identified as the contracting party in this Contract. Certificates shall provide the full name of each insurer providing coverage, its NAIC (National Association of Insurance Commissioners) identification number, its financial rating, the amounts of any policy deductibles or self-insured retentions exceeding fifty thousand (\$50,000.00) dollars, and list any County required endorsement forms.

- Neither the County's failure to obtain, nor the County's receipt of, or failure to object to a non-complying insurance certificate or endorsement, or any other insurance documentation or information provided by the Contractor, its insurance broker(s) and/or insurer(s), shall be construed as a waiver of any of the Required Insurance provisions.

Certificates and copies of any required endorsements shall be sent to:

County of Los Angeles
Chief Executive Office
500 W. Temple Street, Room #788
Los Angeles, CA 90012
Attention: Susan Moomjean

Contractor also shall promptly report to County any injury or property damage accident or incident, including any injury to a Contractor employee occurring on County property, and any loss, disappearance, destruction, misuse, or theft of County property, monies or securities entrusted to Contractor. Contractor also shall promptly notify County of any third party claim or suit filed against Contractor or any of its Sub-contractors which arises from or relates to this Contract, and could result in the filing of a claim or lawsuit against Contractor and/or County.

8.24.2 Additional Insured Status and Scope of Coverage

The County of Los Angeles, it's Special Districts, Elected Officials, Officers, Agents, Employees and Volunteers

(collectively County and its Agents) shall be provided additional insured status under Contractor's General Liability policy with respect to liability arising out of Contractor's ongoing and completed operations performed on behalf of the County. County and its Agents additional insured status shall apply with respect to liability and defense of suits arising out of the Contractor's acts or omissions, whether such liability is attributable to the Contractor or to the County. The full policy limits and scope of protection also shall apply to the County and its Agents as an additional insured, even if they exceed the County's minimum Required Insurance specifications herein. Use of an automatic additional insured endorsement form is acceptable providing it satisfies the Required Insurance provisions herein.

8.24.3 Cancellation of or Changes in Insurance

Contractor shall provide County with, or Contractor's insurance policies shall contain a provision that County shall receive, written notice of cancellation or any change in Required Insurance, including insurer, limits of coverage, term of coverage or policy period. The written notice shall be provided to County at least ten (10) days in advance of cancellation for non-payment of premium and thirty (30) days in advance for any other cancellation or policy change. Failure to provide written notice of cancellation or any change in Required Insurance may constitute a material breach of the Contract, in the sole discretion of the County, upon which the County may suspend or terminate this Contract.

8.24.4 Failure to Maintain Insurance

Contractor's failure to maintain or to provide acceptable evidence that it maintains the Required Insurance shall constitute a material breach of the Contract, upon which County immediately may withhold payments due to Contractor, and/or suspend or terminate this Contract. County, at its sole discretion, may obtain damages from Contractor resulting from said breach. Alternatively, the County may purchase the Required Insurance, and without

further notice to Contractor, deduct the premium cost from sums due to Contractor or pursue Contractor reimbursement.

8.24.5 Insurer Financial Ratings

Coverage shall be placed with insurers acceptable to the County with A.M. Best ratings of not less than A-:VII unless otherwise approved by County.

8.24.6 Contractor's Insurance Shall Be Primary

Contractor's insurance policies, with respect to any claims related to this Contract, shall be primary with respect to all other sources of coverage available to Contractor. Any County maintained insurance or self-insurance coverage shall be in excess of and not contribute to any Contractor coverage.

8.24.7 Waivers of Subrogation

To the fullest extent permitted by law and except for Fidelity Bond coverage, the Contractor hereby waives its rights and its insurer(s)' rights of recovery against County under all the Required Insurance for any loss arising from or relating to this Contract. The Contractor shall require its insurers to execute any waiver of subrogation endorsements which may be necessary to effect such waiver.

8.24.8 Sub-Contractor Insurance Coverage Requirements

Contractor shall include all Sub-Contractors as insureds under Contractor's own policies, or shall provide County with each Sub-Contractor's separate evidence of insurance coverage. Contractor shall be responsible for verifying each Sub-Contractor complies with the Required Insurance provisions herein, and shall require that each Sub-Contractor name the County and Contractor as additional insureds on the Sub-Contractor's General Liability policy. Contractor shall obtain County's prior review and approval of any Sub-Contractor request for modification of the Required Insurance.

8.24.9 Deductibles and Self-Insured Retentions (SIRs)

Contractor's policies shall not obligate the County to pay any portion of any Contractor deductible or SIR. The County retains the right to require Contractor to reduce or eliminate policy deductibles and SIRs as respects the County, or to provide a bond guaranteeing Contractor's payment of all deductibles and SIRs, including all related claims investigation, administration and defense expenses. Such bond shall be executed by a corporate surety licensed to transact business in the State of California.

8.24.10 Claims Made Coverage

If any part of the Required Insurance is written on a claims made basis, any policy retroactive date shall precede the effective date of this Contract. Contractor understands and agrees it shall maintain such coverage for a period of not less than three (3) years following Contract expiration, termination or cancellation.

8.24.11 Application of Excess Liability Coverage

Contractors may use a combination of primary, and excess insurance policies which provide coverage as broad as the underlying primary policies, to satisfy the Required Insurance provisions.

8.24.12 Separation of Insureds

All liability policies shall provide cross-liability coverage as would be afforded by the standard ISO (Insurance Services Office, Inc.) separation of insureds provision with no insured versus insured exclusions or limitations.

8.24.13 Alternative Risk Financing Programs

The County reserves the right to review, and then approve, Contractor use of self-insurance, risk retention groups, risk purchasing groups, pooling arrangements and captive insurance to satisfy the Required Insurance provisions. The County and its Agents shall be designated as an Additional Covered Party under any approved program.

8.24.14 County Review and Approval of Insurance Requirements

The County reserves the right to review and adjust the Required Insurance provisions, conditioned upon County's determination of changes in risk exposures.

8.25 INSURANCE COVERAGE

8.25.1 Commercial General Liability insurance (providing scope of coverage equivalent to ISO policy form CG 00 01), naming County and its Agents as an additional insured, with limits of not less than:

General Aggregate:	\$2 million
Products/Completed Operations Aggregate:	\$1 million
Personal and Advertising Injury:	\$1 million
Each Occurrence:	\$1 million

8.25.2 Automobile Liability insurance (providing scope of coverage equivalent to ISO policy form CA 00 01) with limits of not less than \$1 million for bodily injury and property damage, in combined or equivalent split limits, for each single accident. Insurance shall cover liability arising out of Contractor's use of autos pursuant to this Contract, including owned, leased, hired, and/or non-owned autos, as each may be applicable.

8.25.3 Workers Compensation and Employers' Liability insurance or qualified self-insurance satisfying statutory requirements, which includes Employers' Liability coverage with limits of not less than \$1 million per accident. If Contractor will provide leased employees, or, is an employee leasing or temporary staffing firm or a professional employer organization (PEO), coverage also shall include an Alternate Employer Endorsement (providing scope of coverage equivalent to ISO policy form WC 00 03 01 A) naming the County as the Alternate Employer, and the endorsement form shall be modified to provide that County will receive not less than thirty (30) days advance written notice of

cancellation of this coverage provision. If applicable to Contractor's operations, coverage also shall be arranged to satisfy the requirements of any federal workers or workmen's compensation law or any federal occupational disease law.

8.25.4 Professional Liability/Errors and Omissions

Insurance covering Contractor's liability arising from or related to this Contract, with limits of not less than \$1 million per claim and \$15 million aggregate. Further, Contractor understands and agrees it shall maintain such coverage for a period of not less than three (3) years following this Contract's expiration, termination or cancellation.

8.25.5 Crime Coverage

A Fidelity Bond or Crime Insurance policy with limits of not less than \$30 million per occurrence. Such coverage shall protect against all loss of money, securities, or other valuable property entrusted by County to Contractor, and apply to all of Contractor's directors, officers, agents and employees who regularly handle or have responsibility for such money, securities or property. The County and its Agents shall be named as an Additional Insured and Loss Payee as its interests may appear. This insurance shall include third party fidelity coverage, include coverage for loss due to theft, mysterious disappearance, and computer fraud/theft, and shall not contain a requirement for an arrest and/or conviction.

8.25.6 Privacy/Network Security (Cyber) Liability Coverage

Insurance providing protection against liability for (1) privacy breaches [liability arising from the loss or disclosure of confidential information, excluding intentional acts]; (2) system breach; (3) denial or loss of service; (4) introduction, implantation, or spread of malicious software code; (5) unauthorized access to or use of computer systems with limits of \$5 million. No exclusion/restriction for unencrypted portable devices/media may be on the policy.

8.26 LIQUIDATED DAMAGES

8.26.1 INTENTIONALLY OMITTED

8.26.2 If the CEO, or his designee, determines that there are deficiencies in the performance of this Contract, as set forth in Exhibit O (Performance Requirements Summary (PRS) Chart), the CEO, or his designee, may assess those deductions/fees identified in the PRS Chart as liquidated damages. The parties agree that it will be impracticable or extremely difficult to fix the extent of actual damages resulting from the failure of the Contractor to correct a deficiency. The parties hereby agree that under the current circumstances a reasonable estimate of such damages is as specified in the PRS Chart, and that the Contractor shall be liable to the County for liquidated damages in said amounts. Said amounts shall be deducted from the Contractor's monthly invoice in the month immediately following County's assessment of liquidated damages.

8.26.3 The action noted in Sub-paragraph 8.26.2 shall not be construed as a penalty, but as adjustment of payment to the Contractor to recover the County cost due to the failure of the Contractor to complete or comply with the provisions of this Contract.

8.26.4 This Sub-paragraph shall not, in any manner, restrict or limit the County's right to damages for any breach of this Contract provided by law or as specified in the PRS or Sub-paragraph 8.26.2, and shall not, in any manner, restrict or limit the County's right to terminate this Contract as agreed to herein.

8.27 MOST FAVORED PUBLIC ENTITY

If the Contractor's prices decline, or should the Contractor at any time during the term of this Contract provide the same goods or services under similar quantity and delivery conditions to the State of California or any county, municipality, or district of the State at prices below those set forth in this Contract, then such lower prices shall be immediately extended to the County.

8.28 NONDISCRIMINATION AND AFFIRMATIVE ACTION

- 8.28.1 The Contractor certifies and agrees that all persons employed by it, its affiliates, subsidiaries, or holding companies are and shall be treated equally without regard to or because of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations.
- 8.28.2 The Contractor shall certify to, and comply with, the provisions of Exhibit C (Contractor's EEO Certification).
- 8.28.3 The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations. Such action shall include, but is not limited to: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- 8.28.4 The Contractor certifies and agrees that it will deal with its subcontractors, bidders, or vendors without regard to or because of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation.
- 8.28.5 The Contractor certifies and agrees that it, its affiliates, subsidiaries, or holding companies shall comply with all applicable Federal and State laws and regulations to the end that no person shall, on the grounds of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Contract or under any project, program, or activity supported by this Contract.
- 8.28.6 The Contractor shall allow County representatives access to the Contractor's employment records during regular

business hours to verify compliance with the provisions of this Sub-paragraph 8.28 when so requested by the County.

- 8.28.7 If the County finds that any provisions of this Sub-paragraph 8.28 have been violated, such violation shall constitute a material breach of this Contract upon which the County may terminate or suspend this Contract. While

the County reserves the right to determine independently that the anti-discrimination provisions of this Contract have been violated, in addition, a determination by the California Fair Employment and Housing Commission or the Federal Equal Employment Opportunity Commission that the Contractor has violated Federal or State anti-discrimination laws or regulations shall constitute a finding by the County that the Contractor has violated the anti-discrimination provisions of this Contract.

- 8.28.8 The parties agree that in the event the Contractor violates any of the anti-discrimination provisions of this Contract, the County shall, at its sole option, be entitled to the sum of Five Hundred Dollars (\$500) for each such violation pursuant to California Civil Code Section 1671 as liquidated damages in lieu of terminating or suspending this Contract.

8.29 NON EXCLUSIVITY

Nothing herein is intended nor shall be construed as creating any exclusive arrangement with the Contractor. This Contract shall not restrict the County from acquiring similar, equal or like goods and/or services from other entities or sources.

8.30 NOTICE OF DELAYS

Except as otherwise provided under this Contract, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Contract, that party shall, within three (3) business days, give notice thereof, including all relevant information with respect thereto, to the other party.

8.31 NOTICE OF DISPUTES

The Contractor shall bring to the attention of the County's Project Manager and/or County's Project Director any dispute between the County and the Contractor regarding the performance of services as stated in this Contract. If the County's Project Manager or County's Project Director is not able to resolve the dispute, the Chief Executive Officer, or designee shall resolve it.

8.32 NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT

The Contractor shall notify its employees, and shall require each Subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice No. 1015.

8.33 NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW

The Contractor shall notify and provide to its employees, and shall require each Subcontractor to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The fact sheet is set forth in Exhibit E of this Contract and is also available on the Internet at www.babysafela.org for printing purposes.

8.34 NOTICES

All notices or demands required or permitted to be given or made under this Contract shall be in writing and shall be hand delivered with signed receipt or mailed by first-class registered or certified mail, postage prepaid, addressed to the parties as identified in Exhibits Q (County's Administration) and R (Contractor's Administration). Addresses may be changed by either party giving ten (10) days' prior written notice thereof to the other party. The CEO, or his/her designee shall have the authority to issue all notices or demands required or permitted by the County under this Contract.

8.35 PROHIBITION AGAINST INDUCEMENT OR PERSUASION

Notwithstanding the above, the Contractor and the County agree that, during the term of this Contract and for a period of one year thereafter, neither party shall in any way intentionally induce or persuade any employee of one party to become an employee or agent of the other party. No bar exists against any hiring action initiated through a public announcement.

8.36 PUBLIC RECORDS ACT

8.36.1 Any documents submitted by the Contractor; all information obtained in connection with the County's right to audit and inspect the Contractor's documents, books, and accounting records pursuant to Sub-paragraph 8.38 (Record Retention and Inspection/Audit Settlement) of this Contract; as well as those documents which were required to be submitted in response to the Request for Proposals (RFP) used in the solicitation process for this Contract, become the exclusive property of the County. All such documents become a matter of public record and shall be regarded as public records. Exceptions will be those elements in the California Government Code Section 6250 et seq. (Public Records Act) and which are marked "trade secret", "confidential", or "proprietary". The County shall not in any way be liable or responsible for the disclosure of any such records including, without limitation, those so marked, if disclosure is required by law, or by an order issued by a court of competent jurisdiction.

8.36.2 In the event the County is required to defend an action on a Public Records Act request for any of the aforementioned documents, information, books, records, and/or contents of a proposal marked "trade secret", "confidential", or "proprietary", the Contractor agrees to defend and indemnify the County from all costs and expenses, including reasonable attorney's fees, in action or liability arising under the Public Records Act.

8.37 PUBLICITY

8.37.1 The Contractor shall not disclose any details in connection with this Contract to any person or entity except as may be otherwise provided hereunder or required by law. However,

in recognizing the Contractor's need to identify its services and related clients to sustain itself, the County shall not inhibit the Contractor from publishing its role under this Contract within the following conditions:

- The Contractor shall develop all publicity material in a professional manner; and
- During the term of this Contract, the Contractor shall not, and shall not authorize another to, publish or disseminate any commercial advertisements, press releases, feature articles, or other materials using the name of the County or County Seal without the prior written consent of the County's Project Director. The County shall not unreasonably withhold written consent.

8.37.2 The Contractor may, without the prior written consent of County, indicate in its proposals and sales materials that it has been awarded this Contract with the County of Los Angeles, provided that the requirements of this Sub-paragraph 8.37 shall apply.

8.38 RECORD RETENTION AND INSPECTION/AUDIT SETTLEMENT

The Contractor shall maintain accurate and complete records (including financial records) of its activities and operations relating to this Contract in accordance with generally accepted accounting principles. The Contractor shall also maintain accurate and complete employment and other records relating to its performance of this Contract. The Contractor agrees that the County, or its authorized representatives, shall have access to and the right to examine, audit, excerpt, copy, or transcribe any pertinent transaction, activity, or record relating to this Contract. All such material, including, but not limited to, all financial records, bank statements, cancelled checks or other proof of payment, timecards, sign-in/sign-out sheets and other time and employment records, and proprietary data and information, shall be kept and maintained by the Contractor and shall be made available to the County during the term of this Contract and for a period of five (5) years thereafter unless the County's written permission is given to dispose of any such material prior to such time. All such material shall be maintained by the Contractor at a location in Los Angeles County, provided that if any such material is

located outside Los Angeles County, then, at the County's option, the Contractor shall pay the County for travel, per diem, and other costs incurred by the County to examine, audit, excerpt, copy, or transcribe such material at such other location.

8.38.1 In the event that an audit of the Contractor is conducted specifically regarding this Contract by any Federal or State auditor, or by any auditor or accountant employed by the Contractor or otherwise, then the Contractor shall file a copy of such audit report with the County's Auditor-Controller within thirty (30) days of the Contractor's receipt thereof, unless otherwise provided by applicable Federal or State law or under this Contract. Subject to applicable law, the County shall make a reasonable effort to maintain the confidentiality of such audit report(s).

8.38.2 Failure on the part of the Contractor to comply with any of the provisions of this Sub-paragraph 8.38 shall constitute a material breach of this Contract upon which the County may terminate or suspend this Contract.

8.38.3 If, at any time during the term of this Contract or within five (5) years after the expiration or termination of this Contract, representatives of the County conduct an audit of the Contractor regarding the work performed under this Contract, and if such audit finds that the County's dollar liability for any such work is less than payments made by the County to the Contractor, then the difference shall be either: a) repaid by the Contractor to the County by cash payment upon demand or b) at the sole option of the County's Auditor-Controller, deducted from any amounts due to the Contractor from the County, whether under this Contract or otherwise. If such audit finds that the County's dollar liability for such work is more than the payments made by the County to the Contractor, then the difference shall be paid to the Contractor by the County by cash payment, provided that in no event shall the County's maximum obligation for this Contract exceed the funds appropriated by the County for the purpose of this Contract.

8.39 RECYCLED BOND PAPER

Consistent with the Board of Supervisors' policy to reduce the amount of solid waste deposited at the County landfills, the Contractor agrees to use recycled-content paper to the maximum extent possible on this Contract.

8.40 SUBCONTRACTING

- 8.40.1 The requirements of this Contract may not be subcontracted by the Contractor **without the advance approval of the County**. Any attempt by the Contractor to subcontract without the prior consent of the County may be deemed a material breach of this Contract.
- 8.40.2 If the Contractor desires to subcontract, the Contractor shall provide the following information promptly at the County's request:
- A description of the work to be performed by the Subcontractor;
 - A draft copy of the proposed subcontract; and
 - Other pertinent information and/or certifications requested by the County.
- 8.40.3 The Contractor shall indemnify and hold the County harmless with respect to the activities of each and every Subcontractor in the same manner and to the same degree as if such Subcontractor(s) were the Contractor employees.
- 8.40.4 The Contractor shall remain fully responsible for all performances required of it under this Contract, including those that the Contractor has determined to subcontract, notwithstanding the County's approval of the Contractor's proposed subcontract.
- 8.40.5 The County's consent to subcontract shall not waive the County's right to prior and continuing approval of any and all personnel, including Subcontractor employees, providing services under this Contract. The Contractor is responsible to notify its Subcontractors of this County right.

- 8.40.6 The County's Project Director is authorized to act for and on behalf of the County with respect to approval of any subcontract and Subcontractor employees. After approval of the subcontract by the County, Contractor shall forward a fully executed subcontract to the County for its files.
- 8.40.7 The Contractor shall be solely liable and responsible for all payments or other compensation to all Subcontractors and their officers, employees, agents, and successors in interest arising through services performed hereunder, notwithstanding the County's consent to subcontract.
- 8.40.8 The Contractor shall obtain certificates of insurance, which establish that the Subcontractor maintains all the programs of insurance required by the County from each approved Subcontractor. The Contractor shall ensure delivery of all such documents to:

County of Los Angeles
Chief Executive Office
500 W. Temple Street, Room #788
Los Angeles, CA 90012
Attention: Susan Moomjean

before any Subcontractor employee may perform any work hereunder.

**8.41 TERMINATION FOR BREACH OF WARRANTY TO
MAINTAIN COMPLIANCE WITH COUNTY'S CHILD SUPPORT
COMPLIANCE PROGRAM**

Failure of the Contractor to maintain compliance with the requirements set forth in Sub-paragraph 8.14 (Contractor's Warranty of Adherence to County's Child Support Compliance Program), shall constitute default under this Contract. Without limiting the rights and remedies available to the County under any other provision of this Contract, failure of the Contractor to cure such default within ninety (90) calendar days of written notice shall be grounds upon which the County may terminate this Contract pursuant to Sub-paragraph 8.43 (Termination for Default) and pursue debarment of the Contractor, pursuant to County Code Chapter 2.202.

8.42 TERMINATION FOR CONVENIENCE

8.42.1 This Contract may be terminated, in whole or in part, from time to time, when such action is deemed by the County, in its sole discretion, to be in its best interest. Termination of work hereunder shall be effected by notice of termination to the Contractor specifying the extent to which performance of work is terminated and the date upon which such termination becomes effective. The date upon which such termination becomes effective shall be no less than ten (10) days after the notice is sent. Without limiting the foregoing, if County terminates the Communication Services component of the Contract, or a part thereof, Contractor will receive the TPA Services Fees as set forth in Exhibit B (Pricing Sheet), with any applicable Core Communication Services Costs and Optional Communication Services Costs for the services performed for the County and accepted by the County's Project Manager.

8.42.2 After receipt of a notice of termination and except as otherwise directed by the County, the Contractor shall:

- Stop work under this Contract on the date and to the extent specified in such notice, and
- Complete performance of such part of the work as shall not have been terminated by such notice.

8.42.3 All material including books, records, documents, or other evidence bearing on the costs and expenses of the Contractor under this Contract shall be maintained by the Contractor in accordance with Sub-paragraph 8.38 (Record Retention and Inspection/Audit Settlement).

8.43 TERMINATION FOR DEFAULT

8.43.1 The County may, by written notice to the Contractor, terminate the whole or any part of this Contract, if, in the judgment of County's Project Director:

- Contractor has materially breached this Contract; or

- Contractor fails to timely provide and/or satisfactorily perform any task, deliverable, service, or other work required either under this Contract; or
- Contractor fails to demonstrate a high probability of timely fulfillment of performance requirements under this Contract, or of any obligations of this Contract and in either case, fails to demonstrate convincing progress toward a cure within five (5) working days (or such longer period as the County may authorize in writing) after receipt of written notice from the County specifying such failure.

8.43.2 In the event that the County terminates this Contract in whole or in part as provided in Sub-paragraph 8.43.1, the County may procure, upon such terms and in such manner as the County may deem appropriate, goods and services similar to those so terminated. The Contractor shall be liable to the County for any and all excess costs incurred by the County, as determined by the County, for such similar goods and services. The Contractor shall continue the performance of this Contract to the extent not terminated under the provisions of this Sub-paragraph.

8.43.3 Except with respect to defaults of any Subcontractor, the Contractor shall not be liable for any such excess costs of the type identified in Sub-paragraph 8.43.2 if its failure to perform this Contract arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not limited to: acts of God or of the public enemy, acts of the County in either its sovereign or contractual capacity, acts of Federal or State governments in their sovereign capacities, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case, the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of a Subcontractor, and if such default arises out of causes beyond the control of both the Contractor and Subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any such

excess costs for failure to perform, unless the goods or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required performance schedule. As used in this Sub-paragraph, the term "Subcontractor(s)" means Subcontractor(s) at any tier.

8.43.4 If, after the County has given notice of termination under the provisions of this Sub-paragraph 8.43, it is determined by the County that the Contractor was not in default under the provisions of this Sub-paragraph 8.43, or that the default was excusable under the provisions of Sub-paragraph 8.43.3, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Sub-paragraph 8.42 - Termination for Convenience.

8.43.5 The rights and remedies of the County provided in this Sub-paragraph 8.43 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

8.44 TERMINATION FOR IMPROPER CONSIDERATION

8.44.1 The County may, by written notice to the Contractor, immediately terminate the right of the Contractor to proceed under this Contract if it is found that consideration, in any form, was offered or given by the Contractor, either directly or through an intermediary, to any County officer, employee, or agent with the intent of securing this Contract or securing favorable treatment with respect to the award, amendment, or extension of this Contract or the making of any determinations with respect to the Contractor's performance pursuant to this Contract. In the event of such termination, the County shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of default by the Contractor.

8.44.2 The Contractor shall immediately report any attempt by a County officer or employee to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the

employee or to the County Auditor-Controller's Employee Fraud Hotline at (800) 544-6861.

- 8.44.3 Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

8.45 TERMINATION FOR INSOLVENCY

- 8.45.1 The County may terminate this Contract forthwith in the event of the occurrence of any of the following:

- Insolvency of the Contractor. The Contractor shall be deemed to be insolvent if it has ceased to pay its debts for at least sixty (60) days in the ordinary course of business or cannot pay its debts as they become due, whether or not a petition has been filed under the Federal Bankruptcy Code and whether or not the Contractor is insolvent within the meaning of the Federal Bankruptcy Code;
- The filing of a voluntary or involuntary petition regarding the Contractor under the Federal Bankruptcy Code;
- The appointment of a Receiver or Trustee for the Contractor; or
- The execution by the Contractor of a general assignment for the benefit of creditors.

- 8.45.2 The rights and remedies of the County provided in this Subparagraph 8.45 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

8.46 TERMINATION FOR NON-ADHERENCE OF COUNTY LOBBYIST ORDINANCE

The Contractor, and each County Lobbyist or County Lobbying firm as defined in County Code Section 2.160.010 retained by the Contractor, shall fully comply with the County's Lobbyist Ordinance, County Code Chapter 2.160. Failure on the part of the Contractor or any County Lobbyist or County Lobbying firm retained by the

Contractor to fully comply with the County's Lobbyist Ordinance shall constitute a material breach of this Contract, upon which the County may in its sole discretion, immediately terminate or suspend this Contract.

8.47 TERMINATION FOR NON-APPROPRIATION OF FUNDS

Notwithstanding any other provision of this Contract, the County shall not be obligated for the Contractor's performance hereunder or by any provision of this Contract during any of the County's future fiscal years unless and until the County's Board of Supervisors appropriates funds for this Contract in the County's Budget for each such future fiscal year. In the event that funds are not appropriated for this Contract, then this Contract shall terminate as of June 30 of the last fiscal year for which funds were appropriated. The County shall notify the Contractor in writing of any such non-allocation of funds at the earliest possible date.

8.48 VALIDITY

If any provision of this Contract or the application thereof to any person or circumstance is held invalid, the remainder of this Contract and the application of such provision to other persons or circumstances shall not be affected thereby.

8.49 WAIVER

No waiver by the County of any breach of any provision of this Contract shall constitute a waiver of any other breach or of such provision. Failure of the County to enforce at any time, or from time to time, any provision of this Contract shall not be construed as a waiver thereof. The rights and remedies set forth in this Sub-paragraph 8.49 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

8.50 WARRANTY AGAINST CONTINGENT FEES

8.50.1 The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon any Contract or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established

commercial or selling agencies maintained by the Contractor for the purpose of securing business.

8.50.2 For breach of this warranty, the County shall have the right to terminate this Contract and, at its sole discretion, deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

8.51 WARRANTY OF COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM

Contractor acknowledges that County has established a goal of ensuring that all individuals and businesses that benefit financially from County through contract are current in paying their property tax obligations (secured and unsecured roll) in order to mitigate the economic burden otherwise imposed upon County and its taxpayers.

Unless Contractor qualifies for an exemption or exclusion, Contractor warrants and certifies that to the best of its knowledge it is now in compliance, and during the term of this contract will maintain compliance, with Los Angeles County Code Chapter 2.206.

8.52 TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM

Failure of Contractor to maintain compliance with the requirements set forth in Sub-paragraph 8.51 (Warranty of Compliance with County's Defaulted Property Tax Reduction Program) shall constitute default under this contract. Without limiting the rights and remedies available to County under any other provision of this contract, failure of Contractor to cure such default within 10 days of notice shall be grounds upon which County may terminate this contract and/or pursue debarment of Contractor, pursuant to County Code Chapter 2.206.

8.53 WARRANTY OF NO ADDITIONAL COMPENSATION/REVENUES

Contractor warrants that, other than the compensation set forth in this Contract, including Exhibit B (Pricing Sheet), Contractor will not receive any compensation or revenue, of any kind whatsoever, for performing the services described in this Contract.

8.54 WARRANTY OF COMPLIANCE WITH COUNTY'S ADMINISTRATIVE CORRECTION PROTOCOLS

Contractor warrants and agrees that it will fully comply with County's Administrative Correction Protocols, as set forth in Exhibit A (Statement of Work), Attachment I (Administrative Correction Protocols), and any updates County makes thereto, in its sole discretion.

9.0 UNIQUE TERMS AND CONDITIONS

9.1 OWNERSHIP OF MATERIALS, SOFTWARE AND COPYRIGHT

9.1.1 County shall be the sole owner of all right, title and interest, including copyright, in and to all records, documents, diagrams, videos and materials (hereafter "Materials") which are owned by or created exclusively for the County, including the Retirement Rex character used for communication purposes, other characters created exclusively for the County, and the custom calculator specifically created for the County. Contractor shall retain the right to develop similar materials for other clients. The Contractor, for valuable consideration herein provided, shall execute all documents necessary to assign and transfer to, and vest in the County all of the Contractor's right, title and interest in and to such Materials, including any copyright rights which arise pursuant to the Contractor's work under this Contract. County recognizes that it gains no rights in any tapes, discs, software, proprietary systems, applications, computing environments, underlying data, materials, information, technology and other intellectual property provided by Contractor or its affiliates hereunder (collectively, the "Contractor IP") whether specific to the County or not, generally used by Contractor to perform this contract. County recognizes that it gains no rights to any Contractor trademarks, service marks, emblems or logos specific to

Contractor, Each party hereby grants the other party a nonexclusive, nontransferable license to use its intellectual property, which is subject to this contract, during the term of this Agreement solely for purposes of providing or receiving services hereunder.

- 9.1.2 During the term of this Contract and for five (5) years thereafter, the Contractor shall maintain and provide security for all of the Contractor's working papers prepared under this Contract. County shall have the right to inspect, copy and use at any time during and subsequent to the term of this Contract, any and all such working papers and all information contained therein.
- 9.1.3 Any and all Materials, software and tools which are developed or were originally acquired by the Contractor outside the scope of this Contract, which the Contractor desires to use hereunder, and which the Contractor considers to be proprietary or confidential, must be specifically identified by the Contractor to the County's Project Manager as proprietary or confidential, and shall be plainly and prominently marked by the Contractor as "Proprietary" or "Confidential" on each appropriate page of any document containing such material.
- 9.1.4 The County will use reasonable means to ensure that the Contractor's proprietary and/or confidential items are safeguarded and held in confidence. The County agrees not to reproduce, distribute or disclose to non-County entities any such proprietary and/or confidential items without the prior written consent of the Contractor.
- 9.1.5 Notwithstanding any other provision of this Contract, the County will not be obligated to the Contractor in any way under Sub-paragraph 9.1.4 for any of the Contractor's proprietary and/or confidential items which are not plainly and prominently marked with restrictive legends as required by Sub-paragraph 9.1.3 or for any disclosure which the County is required to make under any state or federal law or order of court.

- 9.1.6 All the rights and obligations of this Paragraph 9.1 shall survive the expiration or termination of this Contract.

9.2 PATENT, COPYRIGHT AND TRADE SECRET INDEMNIFICATION

- 9.2.1 The Contractor shall indemnify, hold harmless and defend County from and against any and all liability, damages, costs, and expenses, including, but not limited to, defense costs and attorneys' fees, for or by reason of any actual or alleged infringement of any third party's patent or copyright, or any actual or alleged unauthorized trade secret disclosure, arising from or related to the operation and utilization of the Contractor's work under this Contract. County shall inform the Contractor as soon as practicable of any claim or action alleging such infringement or unauthorized disclosure, and shall support the Contractor's defense and settlement thereof.
- 9.2.2 In the event any equipment, part thereof, or software product becomes the subject of any complaint, claim, or proceeding alleging infringement or unauthorized disclosure, such that County's continued use of such item is formally restrained, enjoined, or subjected to a risk of damages, the Contractor, at its sole expense, and providing that County's continued use of the system is not materially impeded, shall either:
- Procure for County all rights to continued use of the questioned equipment, part, or software product; or
 - Replace the questioned equipment, part, or software product with a non-questioned item; or
 - Modify the questioned equipment, part, or software so that it is free of claims.
- 9.2.3 The Contractor shall have no liability if the alleged infringement or unauthorized disclosure is based upon a use of the questioned product, either alone or in combination with other items not supplied by the Contractor, in a manner for which the questioned product was not designed nor intended.

9.3 CONTRACTOR'S CHARITABLE ACTIVITIES COMPLIANCE

The Supervision of Trustees and Fundraisers for Charitable Purposes Act regulates entities receiving or raising charitable contributions. The "Nonprofit Integrity Act of 2004" (SB 1262, Chapter 919) increased Charitable Purposes Act requirements. By requiring Contractors to complete the Charitable Contributions Certification, Exhibit O, the County seeks to ensure that all County contractors which receive or raise charitable contributions comply with California law in order to protect the County and its taxpayers. A Contractor which receives or raises charitable contributions without complying with its obligations under California law commits a material breach subjecting it to either contract termination or debarment proceedings or both. (County Code Chapter 2.202)

9.4 DATA DESTRUCTION

Subject to regulatory retention requirements, and except as technologically infeasible, Contractor agrees to permanently and securely destroy or erase Confidential Information consistent with the National Institute of Standards and Technology (NIST) Guidelines for Media Sanitization (Special Publication 800-88), as amended from time to time, from all Systems from which Contractor is removing Confidential Information. Under no circumstances shall Contractor, or such entity as the case may be, use, re-use, sell, lease or otherwise transfer computer systems or storage media on which the Confidential Information has been stored for any purpose unless such Confidential Information has been permanently and securely destroyed or erased. To the extent that Contractor is disposing of any hard copies of Confidential Information (including following any records retention requirements under this Contract or applicable law), Contractor agrees to shred such copies in a manner that renders such copies unable to be recognized and/or reconstructed and not to put in trash container when Contractor disposes of such copies. All such copies to be shredded are to be placed in a locked or secure container/bin/box and labeled "shred" until they are destroyed. No such copies are to be recycled.

Contractor shall provide County with written certification, within ten (10) business days of destruction, erasure, or disposal of any Confidential Information, that validates that any and all Confidential

Information was destroyed, erased or disposed of, and is unusable, unreadable, and/or undecipherable.

9.5 SURVIVAL

The provisions in the following Paragraphs shall survive the expiration or termination of this Contract for any reason:

- 3.3 Gratuitous Effort
- 5.3 No Payment for Services Provided Following Expiration/ Termination of Contract
- 7.8 Confidentiality
- 8.3 Authorization Warranty
- 8.6 Compliance with Applicable Law
- 8.12 Contractor Responsibility and Debarment
- 8.16 Damage to County Facilities, Buildings or Grounds
- 8.17 Employment Eligibility Verification
- 8.19 Fair Labor Standards
- 8.20 Force Majeure
- 8.21 Governing Law, Jurisdiction, and Venue
- 8.23 Indemnification
- 8.24 General Provisions for all Insurance Coverage
- 8.25 Insurance Coverage
- 8.26 Liquidated Damages
- 8.28 Nondiscrimination and Affirmative Action
- 8.30 Notice of Delays
- 8.31 Notice of Disputes
- 8.34 Notices
- 8.35 Prohibition Against Inducement or Persuasion
- 8.36 Public Records Act
- 8.38 Record Retention and Inspection/Audit Settlement
- 8.40 Subcontracting
- 8.42 Termination for Convenience
- 8.43 Termination for Default
- 8.44 Termination for Improper Consideration
- 8.45 Termination for Insolvency
- 8.48 Validity & Severability
- 8.49 Waiver
- 8.53 Warranty of No Additional Compensation/Revenues
- 8.54 Warranty of Compliance with County's Administrative Correction Protocols
- 9.1 Ownership of Materials, Software and Copyright Indemnification and Insurance
- 9.2 Patent, Copyright and Trade Secret Indemnification
- 9.4 Data Destruction

IN WITNESS WHEREOF, Contractor has executed this Contract, or caused it to be duly executed and the County of Los Angeles, by order of its Board of Supervisors has caused this Contract to be executed on its behalf by the Chair of said Board and attested by the Executive Officer-Clerk of the Board of Supervisors thereof, the day and year first above written.

GREAT-WEST LIFE & ANNUITY INSURANCE COMPANY

By



Brent Neese

Printed Name

Vice President, Government Markets

Title

COUNTY OF LOS ANGELES

By

Chairman, Board of Supervisors

ATTEST:

SACHI HAMAI
Executive Officer-Clerk
of the Board of Supervisors

By_____

APPROVED AS TO FORM:

JOHN F. KRATTLI
County Counsel

By



Principal Deputy County Counsel

DEFINED CONTRIBUTION PLAN SURVEY

COUNTY OF LOS ANGELES

NOVEMBER, 2013

CONTENTS

1. Executive Summary	1
• Comparable Plans.....	3
• TPA Services.....	5
• Participant Services	5
• TPA Fees.....	5
2. Details of Study of Comparable Plans	7
• Demographics of Plans	8
• TPA Services	12
• Advice and Managed Accounts.....	13
• Consultant Services	14
• Participant Services	15
• Investments.....	16
• Lifetime Income.....	17
• Plan Design.....	18
• Governance Structures	19
• Fees.....	20

Executive Summary

The Chief Executive Office retained Mercer Investment Consulting, Inc. (Mercer) to assist with developing a request for proposals (RFP) for third party administrator (TPA) services for the Deferred Compensation and Thrift Plan (Horizons), the Savings Plan, the Pension Savings Plan, and the Termination Pay Pick-up Plan, collectively known as the County of Los Angeles Defined Contribution Program. The RFP process allows the County to consider the terms under which other service providers can deliver comparable or improved services and often offers an opportunity to enhance service with the current provider.

The first deliverable in the project was to conduct a program study to understand “where we are today” by benchmarking services and fees with other comparable defined contribution plans. A survey of defined contribution plans was conducted in order to meet this deliverable. This report summarizes the findings from the survey, which will be incorporated into the RFP.

The responses from the survey reflect that the Defined Contribution Program is currently receiving TPA services and fees that are competitive to those provided to comparable government defined contribution plans. The following are key observations of what might be considered current best practices for jumbo plans greater than \$1 billion.

- Local service center: centrally located office available for appointment and walk-in service.
- Call center: dedicated or primary call center staff, with back-up in place for periods of peak volume such as following the issuance of quarterly statements
- Field representatives: dedicated field staff that do not service other plans.
- Communication materials: designed specifically for the Plan, and customized for the Plan sponsor.

- Investments: 10-20 core investment options to minimize participant anxiety and confusion regarding the selection of investment options. Self-directed brokerage windows are prevalent in order to provide options for more sophisticated participants. Separate accounts and commingled funds frequently offer lower investment fees.
- Fee structure: Either flat per-participant fees or asset based fees with a cap are prevalent among jumbo plans to avoid over-charging participants with higher account balances.
- Self-sustaining cost structure: costs of the plan are paid out of plan assets in the form of fees charged to participant accounts.
- Financial transparency: TPA segregates the plan from other clients through a separate ledger or accounting system and provides regular reconciled reports.

Comparable Plans

The comparable plans were identified based on one or more characteristics shared with the County of Los Angeles Defined Contribution Program. The four Plans that make up this Program are briefly described as follows:

457 Deferred Compensation and Thrift (Horizons) Plan – Full-time permanent employees are eligible to participate with a dollar-for-dollar match up to 4% of regular earnings with immediate 100% vesting. The match for represented employees is subject to a negotiated fiscal year cap.

401(k) Savings Plan – Full-time permanent non-represented employees are eligible to participate with a dollar-for-dollar match up to 4% of compensation with a vesting schedule (20% per year).

457 Pension Savings Plan – This Plan is designed as a Social Security offset program restricted to employees ineligible to participate in the County's defined benefit program through the Los Angeles County Employees Retirement Association (LACERA) or the Judges Retirement System. The Plan is comprised of part-time, seasonal and temporary employees. Participation is mandatory with a 4.5% employee contribution and 3% County contribution with immediate 100% vesting. The Plan allows voluntary employee contributions above 4.5%.

401(a) Termination Pay Pick-Up Plan – This frozen plan was designed to pick-up unused accrued vacation, sick, and holiday pay upon termination from County services. In 2007 the IRS officially notified the County that it would not issue a favorable private letter ruling for the Plan. In light of the IRS's position, the Plan ceased taking any pick-up contributions in 2007. The Plan will eventually be terminated.

The following defined contribution plans were identified as comparable with respect to plan type, asset size, participant population, and complexity (statistics as of December 31, 2012).

	County of Los Angeles	City of Los Angeles	State of California	State of New York	State of North Carolina	Commonwealth of Virginia
Plan types	457, 401(k), PST, 401(a) term pay	457, PST	457, 401(k) PST, 401(a) ARP	457	457, 401(k)*	457, 401(a) match, 4 other 401(a)
Eligible employees	457 – 92,000 401(k) – 13,000	457 – 45,000	457 – 240,000 401(k) – 240,000	457 – 400,000	457 – 204,000 401(k) – 446,000	457 – 190,000
Participation	457 – 71% 401(k) – 71%	457 – 63%	457 – 23% 401(k) – 21%	457 – 34%	457 – 11% 401(k) – 27%	457 – 29%
Total assets (all plans)	\$8.2 billion	\$3.7 billion	\$8.5 billion	\$13.5 billion	\$7.0 billion	\$4.2 billion
Average account (457 Plan)	\$73,563	\$92,500	\$37,244	\$69,231	\$21,951	\$21,827
TPA	Great-West	Great-West	Aon Hewitt	Nationwide	Prudential	ING**

PST = Part-time, seasonal, and temporary employee social security offset plan

ARP = Alternate Retirement Program designed as mandatory 414(h) pick-up plan, which certain State employees hired after 2004 participate in for 2 years

*North Carolina is rolling out a new State-sponsored 403(b) option in 2013 for public school employees

** Virginia recently completed its RFP project and will transition from ING to ICMA Retirement Corporation effective January 1, 2014.

Each organization provided a response to the survey in May, 2013. The responses included information regarding plan size, participation, contributions, services provided by the TPA, participant servicing models, number and type of investments utilized, governance structure, and fees. Select observations from the survey are provided below.

TPA Services

The comparison plans indicated that in most situations the services provided by the TPA include group and one-on-one counseling for participants, a local office, a call center with dedicated or primary team for the Plans, a customized website, and assistance with administrative functions such as domestic relations orders and hardship withdrawal applications. Two of the comparison plans utilize either internal resources or consultants in the design of communication materials, while the others rely on the TPA for these services.

Participant Services

Dedicated call center representatives, as well as primary call center teams, are generally more expensive than sharing call center staff with other plans, although they are still common among large plans. Dedicated or primary teams are anticipated to be more responsive to participant inquiries because they can focus on a single client's plan design.

Comparison plans reported a broad range of on-site education representatives being used with the lowest being four and the highest being 17 representatives. Mercer's experience is that establishing the balance between benefit of additional representatives and additional cost is often unique to a Plan and the needs of its participant base. While the County utilizes only six on-site education and enrollment representatives, it enjoys the highest levels of participation, which may indicate the lower staffing model is suitable for its participant base.

TPA Fees

TPA fees are a function of the services provided by the TPA, and as indicated by the survey responses the services often vary from plan to plan. With that in mind, the table below indicates the total amount each comparable plan paid for TPA services in 2012. It also includes a calculation of this cost relative to the number of participants in the Plans. This indicates the County's fee structure is competitive.

	County of Los Angeles	City of Los Angeles	State of California	State of New York	State of North Carolina	Commonwealth of Virginia
2012 TPA costs	\$4,003,050 ¹	\$1,505,000	\$6,539,000	\$7,500,000	\$6,720,000 ³	\$2,946,600 ³
457 + 401(k) participants	88,670 ¹	40,000	163,976 ²	195,000	272,000 ⁴	75,000
TPA cost/ppt amount	457 - \$39.20 401(k) - \$43.90 Unique SS# - \$45.15	\$37.63	457 & 401(k) fees are the same Unique SS# - \$39.88	\$38.46	\$24.71 ⁴	\$39.29
TPA	Great-West	Great-West	Aon Hewitt	Nationwide	Prudential	ING

¹TPA costs calculated based on account fees for each plan. TPA fees are \$39.20 per 457 Horizons account and \$43.90 per 401(k) Savings account. Unique SS# participant count includes 11,830 participants with multiple accounts (87,000 + 13,500 – 11,830 = 88,670).

²State of California participant count includes unique SS#, with approximately 60,000 participants with multiple accounts.

³Fees calculated based on asset fees for each plan.

⁴North Carolina has not provided the number of participants with multiple accounts, so the TPA cost/ppt amount may be higher than the calculation if there are a significant number of participants with multiple accounts.

2

Details of Study of Comparable Plans

The following pages reflect the responses from each of the comparable plans in table format with Mercer's observations. Unless otherwise indicated, the information provided is as of December 31, 2012.

Demographics of Plans Eligible and Contributing Participants

Eligible Employees	County of Los Angeles	City of Los Angeles	State of California	State of New York	State of North Carolina	Commonwealth of Virginia
457 Plan	92,000	45,000	240,000	400,000	204,000	190,000
401(k) Plan	13,000		240,000		446,000	
401(a) Plan	None – frozen		26,000*			110,000 (match)
Other	19,478 (PST)	6,000 (PST)	12,000 (PST)			4 other 401(a) for select groups**

*California 401(a) Plan is the Alternate Retirement Program, which certain State employees hired after 2004 participate in for 2 years (mandatory).

**VRS has oversight of 401(a) plans for political appointees (ORPPA), school superintendents (ORPSS), certain school division employees designated by division administration (VSRP), and higher education (ORPHE)

Actively Contributing	County of Los Angeles	City of Los Angeles	State of California	State of New York	State of North Carolina	Commonwealth of Virginia
457 Plan	65,740	28,514	55,318	136,400	23,281	55,388
401(k) Plan	9,266		51,542		121,301	
401(a) Plan	None – frozen		8,529			51,364
Other	19,478 (PST)	6,000 (PST)	12,000 (PST)			Varies by plan
	Shaded areas indicate plan type not offered					

Observations

- The County's 457 Plan is open to full-time permanent employees including union employees, while the 401(k) Plan is primarily open to full-time permanent non-represented employees. This differs from California and North Carolina, where the entire employee population is eligible for both plans.

Plan Participation and Employer Contributions

Core Plan Participation	County of Los Angeles	City of Los Angeles	State of California	State of New York	State of North Carolina	Commonwealth of Virginia
Participation	457 – 71% 401(k) – 71%	457 – 63%	457 – 23% 401(k) – 21%	457 – 34%	457 – 11% 401(k) – 27%	457 – 29%

*State of California participants are eligible to contribute to the 457 and/or 401(k) plans

Employer Contributions	County of Los Angeles	City of Los Angeles	State of California	State of New York	State of North Carolina	Commonwealth of Virginia
457 Plan	Dollar for dollar, up to 4%	N/A	N/A	N/A	N/A	N/A
401(k) Plan	Dollar for dollar, up to 4%		N/A		Varies by employer	N/A
401(a) Plan	N/A		N/A			50% of EE contribution, up to \$480
Other	4.5% EE + 3% ER mandatory	4.5% EE + 3% ER mandatory	7.5% EE mandatory			Different amounts for two ORP plans

Observations

- The County has a high participation rate in comparison to the survey respondents. While the match is expected to be a significant contributor to this, participation rates are also high compared to Virginia (the respondent also offering a match).
- Mercer's experience is that state plans typically have lower participation rates than City/County plans due to the expanded geographies that can make marketing more difficult.

Plan Assets and Average Assets per Participant

Total Assets	County of Los Angeles	City of Los Angeles	State of California	State of New York	State of North Carolina	Commonwealth of Virginia
457 Plan	\$6,400,000,000	\$3,700,000,000	\$4,432,000,000	\$13,500,000,000	\$900,000,000	\$1,637,000,000
401(k) Plan	\$1,800,000,000		\$4,039,000,000		\$6,100,000,000	
401(a) Plan	\$3,300,000		\$81,000,000			\$280,000,000
Other	\$136,000,000	\$62,000,000	\$71,000,000			\$2,400,000,000

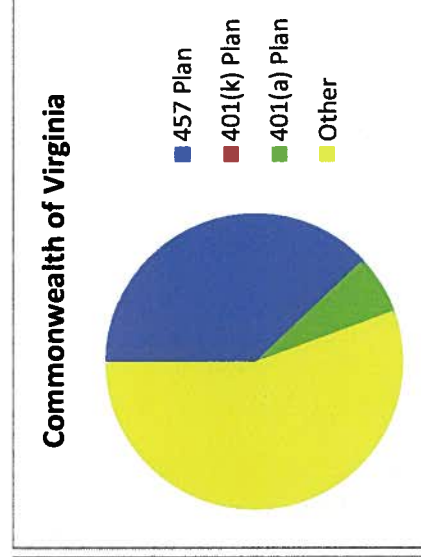
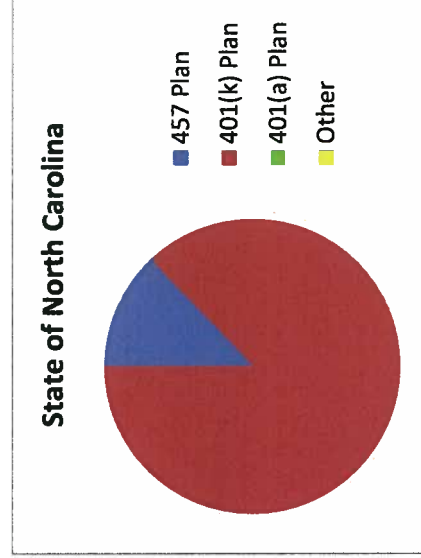
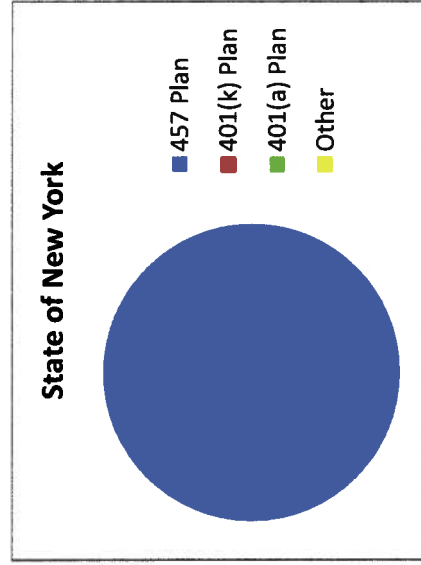
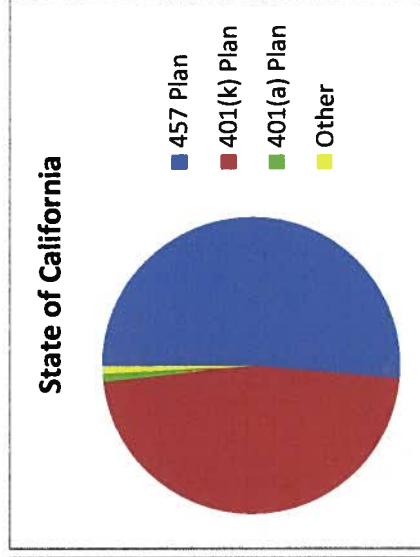
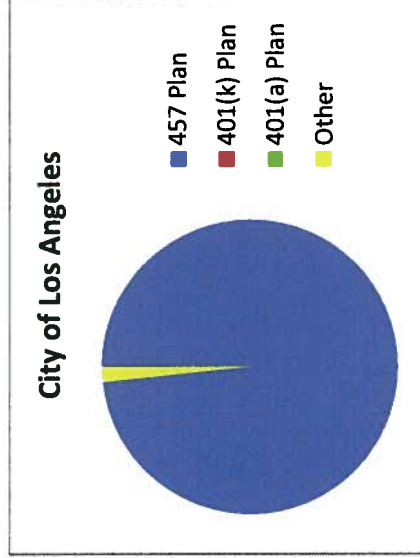
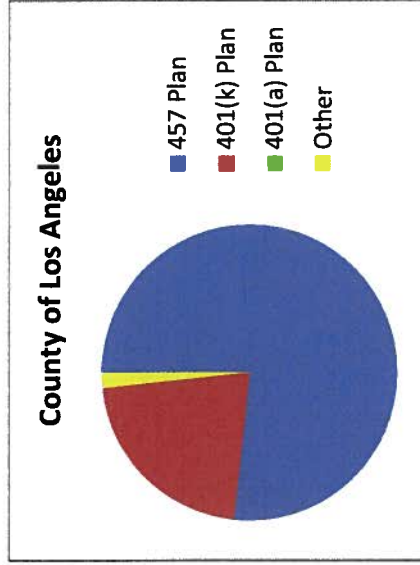
Total Participants	County of Los Angeles	City of Los Angeles	State of California	State of New York	State of North Carolina	Commonwealth of Virginia
457 Plan	87,000	40,000	119,000	195,000	41,000	75,000
401(k) Plan	13,500		105,000		231,000	
401(a) Plan	101		26,000			70,000
Other	27,500	36,000	80,000			12,000

Average Assets per Participant	County of Los Angeles	City of Los Angeles	State of California	State of New York	State of North Carolina	Commonwealth of Virginia
457 Plan	\$73,563	\$92,500	\$37,244	\$69,231	\$21,951	\$21,827
401(k) Plan	\$133,333		\$38,467		\$26,407	
401(a) Plan	\$32,673		\$3,115			\$4,000
Other	\$4,945	\$1,722	\$888			\$200,000

Observations

- The County has relatively high average account balances. This is particularly notable because plans with a match in place often experience lower average account balances due to many participants contributing the minimum amount needed to get the match.

Assets by Plan Type



TPA Services

Survey respondents were asked to identify the parties that provide various services below.

	County of Los Angeles			City of Los Angeles			State of California			State of New York			State of North Carolina			Commonwealth of Virginia		
	TPA	Plan	Other	TPA	Plan	Other	TPA	Plan	Other	TPA	Plan	Other	TPA	Plan	Other	TPA	Plan	Other
Communications	TPA, but separate contract			TPA, but also use consultant			X			X			Did not respond			TPA, with input from Public Relations		
Enrollment	X			Paper			Paper & web			Paper						X		X
Plan document and SPD updates	SPD	Plan document with outside counsel		X	X			X			X						X	
Web site	X						X			X						X		X
Trustee services			Wells Fargo			Wells Fargo			JPMorgan Chase			BNY Mellon					VRS Board	
External plan audit		X		N/A				Finance				X					X	
QDRO		X			X		X			X							X	
Hardships	X			X			X			X							X	
Hardship appeal		X			X			X		X							X	
457 3-yr catch-up	X			X				X		X							X	
TPA		Great-West			Great-West			Aon Hewitt			Nationwide			Prudential			ING	

Observations

- Each of the comparison plans indicated that communications are included in the TPA contract. In the future, the County may wish to consider a similar model unless it feels it receives increased services at competitive fees by continuing to utilize a separate contract structure.

Advice and Managed Accounts

	County of Los Angeles	City of Los Angeles	State of California	State of New York	State of North Carolina	Commonwealth of Virginia
Participant advice	Not currently offered	Not currently offered	Via TPA in 2013	Not currently offered	Not currently offered	Not currently offered
Managed accounts	Not currently offered	Not currently offered	Via TPA in 2013	Not currently offered	Not currently offered	Not currently offered
Fees for services	N/A	N/A	Advice for no additional cost Managed accounts charged 0.45% for first \$250,000 and 0.30% thereafter	N/A	N/A	N/A

Observations

- While advice and managed account services continue to be the subject of much discussion in the defined contribution market, most of the comparison plans do not offer these services (State of California added in 2013).
- Mercer's experience is that many plan sponsors acknowledge the potential value of investment advice and managed account services for participants, but often site fees as one of the reasons the service is not offered.

Consultant Services

Each respondent was asked to identify what services are currently provided by consulting firms.

	County of Los Angeles	City of Los Angeles	State of California	State of New York	State of North Carolina	Commonwealth of Virginia
Investment review	Yes	Yes	Yes	Yes	Yes	No
Investment searches	Yes	Yes	Yes	Yes	Yes	No
Proxy voting	Yes	No	No	No	No	No
Stable value review	Yes	Yes	No	Yes	Yes	No
TDF allocations	Yes	No	Yes	No	No	Yes
Commission recapture admin	N/A	No	No	No	No	No
Securities lending	N/A	No	No	Yes	No	No
Communication (separate contract)						
-review	Yes	Yes	No	No	No	No
-production	Yes	Yes	No	No	No	No

Observations

- Virginia Retirement System manages both the DB and DC plans available to participants, and leverages internal investment staff for many of the functions typically performed by consultants in plans that strictly have oversight for the DC plans.
- The City of Los Angeles supplements the communication materials provided by the TPA with input from consultants.

Participant Services

	County of Los Angeles	City of Los Angeles	State of California	State of New York	State of North Carolina	Commonwealth of Virginia
Local office	TPA rents	Provided by plan sponsor at no cost to TPA	Provided by plan sponsor at no cost to TPA	TPA rents	Did not respond	TPA rents
On-site reps	6 reps	4 reps	5 reps	17 reps	Did not respond	4 reps in 2013 5 reps in 2014
Call center	Home office, primary team of 20+	Home office, primary team	24 dedicated phone reps located in local call center	25 dedicated phone reps located in local call center	Did not respond	Home office, primary team
Communications during open enrollment?	Not during general open enrollment	Yes, provide program description booklet	Not during general open enrollment	Not during general open enrollment	Did not respond	TPA reps attend benefit fairs

Observations

- On-site representative counts are typically higher among state plans that need to cover a larger geography.
- Dedicated call center representatives, as well as primary call center teams, are generally more expensive than sharing call center staff with other plans, although they are still common among large plans. Dedicated or primary teams are anticipated to be more responsive to participant inquiries because they can focus on a single client's plan design.

Investments

Each respondent indicated the following investment options are offered in the 457 and (if applicable) 401(k) plans.

	County of Los Angeles	City of Los Angeles	State of California	State of New York	State of North Carolina	Commonwealth of Virginia
Mutual funds	No	5 mutual funds	No	22 mutual funds + 10 target date mutual funds	No	No
Separate accounts or commingled trust	9 custom portfolios + 10 target date portfolios	2 custom portfolios + 5 risk based portfolios	14 custom portfolios + 5 risk based portfolios	3 custom portfolios	12 custom portfolios	11 custom portfolios + 10 target date portfolios + VRS Investment Portfolio
Brokerage window (utilization)	Yes (1%)	Yes (6%)	Yes (5%)	Yes (1%)	No	Yes (1%)

Observations

- The use of separate accounts and commingled trust products continues to grow among jumbo plans. These investment vehicles typically provide access to investment managers at lower fees compared to mutual funds.
- Many plans offer brokerage windows in order to provide access to invest in options outside the core investment offering. Mercer's experience is that utilization in these options is typically low (often 1-2%).

Lifetime Income

	County of Los Angeles	City of Los Angeles	State of California	State of New York	State of North Carolina	Commonwealth of Virginia
Annuity distribution option	Yes (MetLife, Pacific Life)	No	No	No	No	Yes (MetLife)
Special resources focused on retirees and near-retirees	Mid-career and pre-retirement seminars	None	"Nearing retirement" workshop	Did not respond	Did not respond	Did not respond
TPA permitted to sell IRA products to participants?	No	No	No	No	No	No
DB Plan	LACERA	3 retirement systems for civilian, sworn, and Department of Water and Power	CalPERS	3 retirement systems for state employees, teachers, and police/fire	7 retirement systems for teachers/state employees, local government, legislative, firemen, judges, state police and local police	VRS

Observations

- While most plan sponsors agree that lifetime income options are an important component of retirement planning, several public sector plans do not offer these options. Mercer's experience is that the plan sponsor may view the defined benefit plan as providing adequate access to lifetime income options.
- While many TPA companies are life insurance companies that can offer annuity distribution options, independently selecting annuity option providers is generally viewed as a best practice among jumbo plans.
- As increased populations move into retirement (baby boomer generation), Mercer's experience is that increased resources are being utilized to assist retirees and near-retirees.

Plan Design

	County of Los Angeles	City of Los Angeles	State of California	State of New York	State of North Carolina	Commonwealth of Virginia
Primary or supplemental plan	Supplemental	Supplemental	Supplemental	Supplemental	Supplemental	457 is supplemental*
Auto enrollment	No	No	No	No	No	Yes; \$20/pay (\$480/yr), no auto-increase
Roth contributions	No	Yes	In 2013	Yes	Yes	No
Roth conversions	No	Yes	No	Yes	Did not respond	No
Loans	Yes	Yes	Yes	Yes	Yes	No
Hardship/UE	Yes	Yes	Yes	Yes	Yes	Yes
In-service <\$5,000	Yes	Yes	Yes	Yes	Yes	Yes

*VRS will implement a primary/core DC plan in 2014, including a hybrid DB/DC approach.

Observations

- Virginia will implement a hybrid DB/DC retirement plan to participants in 2014. New employees after January 1, 2014 will have a reduced defined benefit combined with a mandatory employer and employee contribution to a defined contribution plan. Virginia will continue to offer the "supplemental" 457 plan in addition to the hybrid plan.
- Roth contributions have increased in prevalence among public sector DC plans since they became available in 2011 via the Small Business Jobs Act of 2010.

Governance Structures

	County of Los Angeles	City of Los Angeles	State of California	State of New York	State of North Carolina	Commonwealth of Virginia
Board	457 & 401(a) – Committee with 4 management and 4 union representatives, and a Board appointee 401(k) – Committee composed of management representatives only	Board established by governance; some positions held by virtue of position (Treasurer, etc.)	Director serves as sole fiduciary	3-member Board, with one appointment each from Governor, Senate Majority Leader and Assembly Speaker	9-member Board of Trustees; Chaired by Treasurer; 6 appointees from Governor and 2 from General Assembly	Board of Trustees
Committee(s)	Respective Committee makes all administrative decisions for its Plan	Investment and Plan Governance/ Administration Committees	Investment Committee	None identified	Did not respond	DC Plans Advisory Committee and Investments Advisory Committee
Plan sponsor staff	CEO + 7 full-time equivalents across 4 departments	Program Manager (60%) + 4.5 full-time equivalents	Administrator + 23.5 full-time equivalents (100%)	Executive Director + 3 full-time employees (90%)	Did not respond	DC Plans Administrator + 8 full-time equivalents; executive staff shared with DB

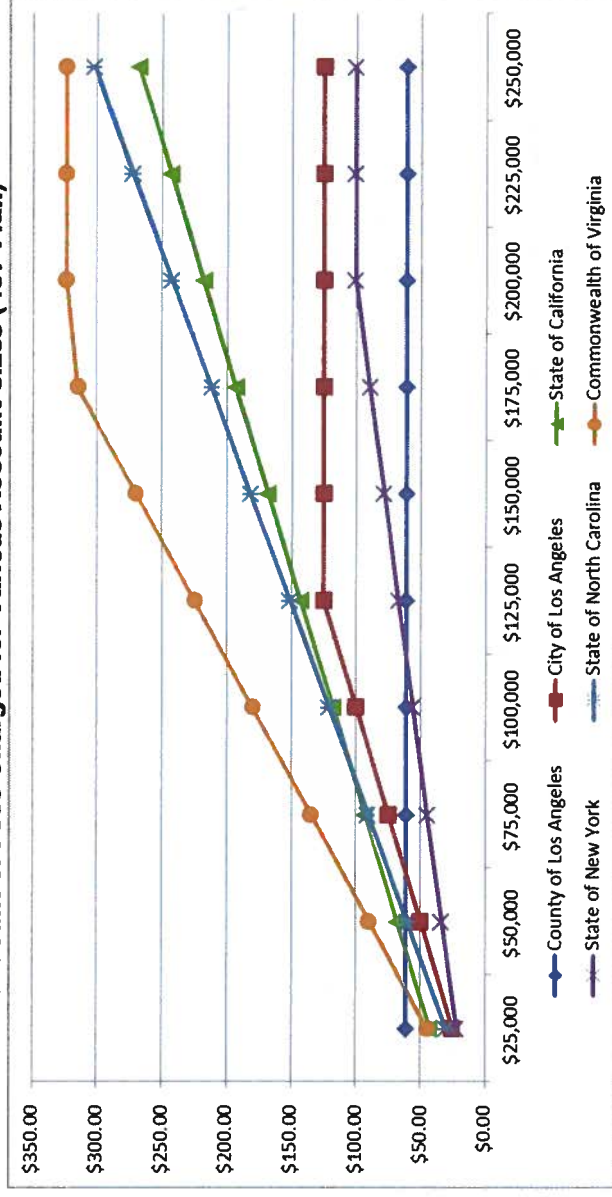
Observations

- Plan sponsor staff at the County appears to be efficient relative to the comparison plans.

Fees

	County of Los Angeles	City of Los Angeles	State of California	State of New York	State of North Carolina	Commonwealth of Virginia
Participant fees 457	\$60.80/year (\$39.20 TPA + \$21.60 Plan)	0.10% capped at \$125,000	\$18/year + 0.10%	\$20/year + 0.045% on balances \$20,000 - \$200,000	0.121% (0.096% TPA + 0.025% Plan)	0.18% capped at \$180,000
Participant fees 401(k)	\$103.18/year (\$43.90 TPA + \$59.28 Plan)	N/A	Same at 457	N/A	Same at 457	N/A

Amount of Fees Charged for Various Account Sizes (457 Plan)



Total Costs

Each of the DC Plans was asked to identify the total costs of the DC plans in 2012. This number differs from the TPA costs, and would typically include costs for consulting services, outside counsel, internal staff, and trustee/custodial services, etc. Investment management costs are not included in the amounts below.

	County of Los Angeles	City of Los Angeles	State of California	State of New York	State of North Carolina	Commonwealth of Virginia
2012 Total costs	\$6,682,530 ¹	\$2,819,532	\$10,262,000	\$9,700,000	\$8,470,000 ³	Not provided
Plan assets	\$8,200,000,000	\$3,700,000,000	\$8,471,000,000	\$13,500,000,000	\$7,000,000,000	\$1,637,000,000
Total cost/asset ratio	0.081%	0.076%	0.121%	0.072%	0.121%	N/A
457 + 401(k) participants	88,670 ¹	40,000	163,976 ²	195,000	272,000 ⁴	75,000
Total cost/ppt amount	457 - \$60.80 401(k) - \$103.18 Unique SS# - \$75.36	\$70.49	457 & 401(k) fees are the same Unique SS# - \$62.58	\$49.74	\$31.14	N/A

¹Total costs calculated based on account fees for each plan. Total costs are \$60.80 per 457 Horizons account and \$103.18 per 401(k) Savings account. Unique SS# participant count includes 11,830 participants with multiple accounts (87,000 + 13,500 – 11,830 = 88,670).

²California participant count includes unique SS#, with approximately 60,000 participants with multiple accounts.

³Fees calculated based on asset fees for each plan.

⁴North Carolina has not provided the number of participants with multiple accounts, so the TPA cost/ppt amount is under-estimated.

Contractual Items

	County of Los Angeles	City of Los Angeles	State of California	State of New York	State of North Carolina	Commonwealth of Virginia
Other fees based on status	\$25/year for rollovers in less than \$10,000	No difference	No difference	No difference	Did not respond	No difference
Mutual fund revenue sharing	Credited to fund	Credited to participant account	Referenced 0.10% administration fee	Credited to participant account	No revenue sharing	No revenue sharing
Performance guarantees	Yes, areas such as call center, ppt processing, ppt satisfaction	Yes, areas such as call center, ppt processing, ppt satisfaction	Yes, areas such as call center, website, processing, ppt satisfaction	Yes, areas such as meetings, website, call center, and processing	Did not respond	Yes, areas such as reporting, website, call center, and processing
TPA liable for errors	Make participant whole for errors by TPA; EPCRS is used as a guide	All rights and remedies available under law	TPA indemnifies Plan for expenses and assumes financial responsibility	TPA indemnifies Plan for losses due to TPA	Did not respond	Make participant whole for errors by TPA
Contract term	5 years + two 1-year extensions	5 years, then extended 5 years	5 years with 2-year extension	7 years + two 1-year extensions	Did not respond	5 years + two 3-year extensions
Administrative funding from TPA	No	Covered in 0.10%	No	No	Did not respond	No
Reg. 404a-5 fee disclosure	Fees are disclosed on website and in Plan materials	Fee disclosure via newsletter; considering to all non-participants	Ensure fees are published online and in performance reports	Created fee disclosure brochure and publish in performance report	Did not respond	Did not respond

Cost for TPA Services

While the cost amounts identified above reflect the amounts charged to participants, they do not necessarily indicate the costs for the TPA services. Each survey respondent was asked to identify the dollar cost for TPA services provided in 2012. The table below demonstrates TPA fees as a ratio to assets and as a ratio to participant counts (combined 457 and 401(k)).

	County of Los Angeles	City of Los Angeles	State of California	State of New York	State of North Carolina	Commonwealth of Virginia
2012 TPA costs	\$4,003,050 ¹	\$1,505,000	\$6,539,000	\$7,500,000	\$6,720,000 ³	\$2,946,600 ³
Plan assets	\$8,200,000,000	\$3,700,000,000	\$8,471,000,000	\$13,500,000,000	\$7,000,000,000	\$1,637,000,000
TPA cost/asset ratio	0.049%	0.041%	0.077%	0.056%	0.096%	0.180%
457 + 401(k) participants	88,670 ¹	40,000	163,976 ²	195,000	272,000 ⁴	75,000
TPA cost/ppt amount	457 - \$39.20 401(k) - \$43.90 Unique SS# - \$45.15	\$37.63	457 & 401(k) fees are the same Unique SS# - \$39.88	\$38.46	\$24.71 ⁴	\$39.29
TPA	Great-West	Great-West	Aon Hewitt	Nationwide	Prudential	ING

¹TPA costs calculated based on account fees for each plan. TPA fees are \$39.20 per 457 Horizons account and \$43.90 per 401(k) Savings account. Unique SS# participant count includes 11,830 participants with multiple accounts (87,000 + 13,500 – 11,830 = 88,670).

²California participant count includes unique SS#, with approximately 60,000 participants with multiple accounts.

³Fees calculated based on asset fees for each plan.

⁴North Carolina has not provided the number of participants with multiple accounts, so the TPA cost/ppt amount is under-estimated.

The TPA costs above are considered to be the most useful in terms of comparing costs and setting expectations for price proposals in the RFP. Mercer's observation is that the current fees for the County are competitive, and therefore it may be unlikely that significantly reduced fees will be proposed as a result of the RFP.

Fee Drivers

In general, TPA fees are driven by the level of service provided for the DC plans. Some of the key drivers of fees are the amount of field staff utilized, and the provision of written communication materials. Commission recapture and securities lending programs also have the possibility of reducing fees if the programs produce additional revenue.

	County of Los Angeles	City of Los Angeles	State of California	State of New York	State of North Carolina	Commonwealth of Virginia
TPA field staff	6 reps	4 reps	5 reps	17 reps	Did not respond	4 reps in 2013 5 reps in 2014
Written communications	Outside of TPA contract	Included in TPA contract	Included in TPA contract	Included in TPA contract	Included in TPA contract	Included in TPA contract
Commission recapture	No	No	No	No	Did not respond	No
Securities lending	No	No	Yes	No	Did not respond	No

Observations

- Current TPA fees for the County are competitive.
- Flat per-participant fees or asset fees incorporating a cap are often used by jumbo plans. These fee structures help normalize the amount of fees charged to participants.

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